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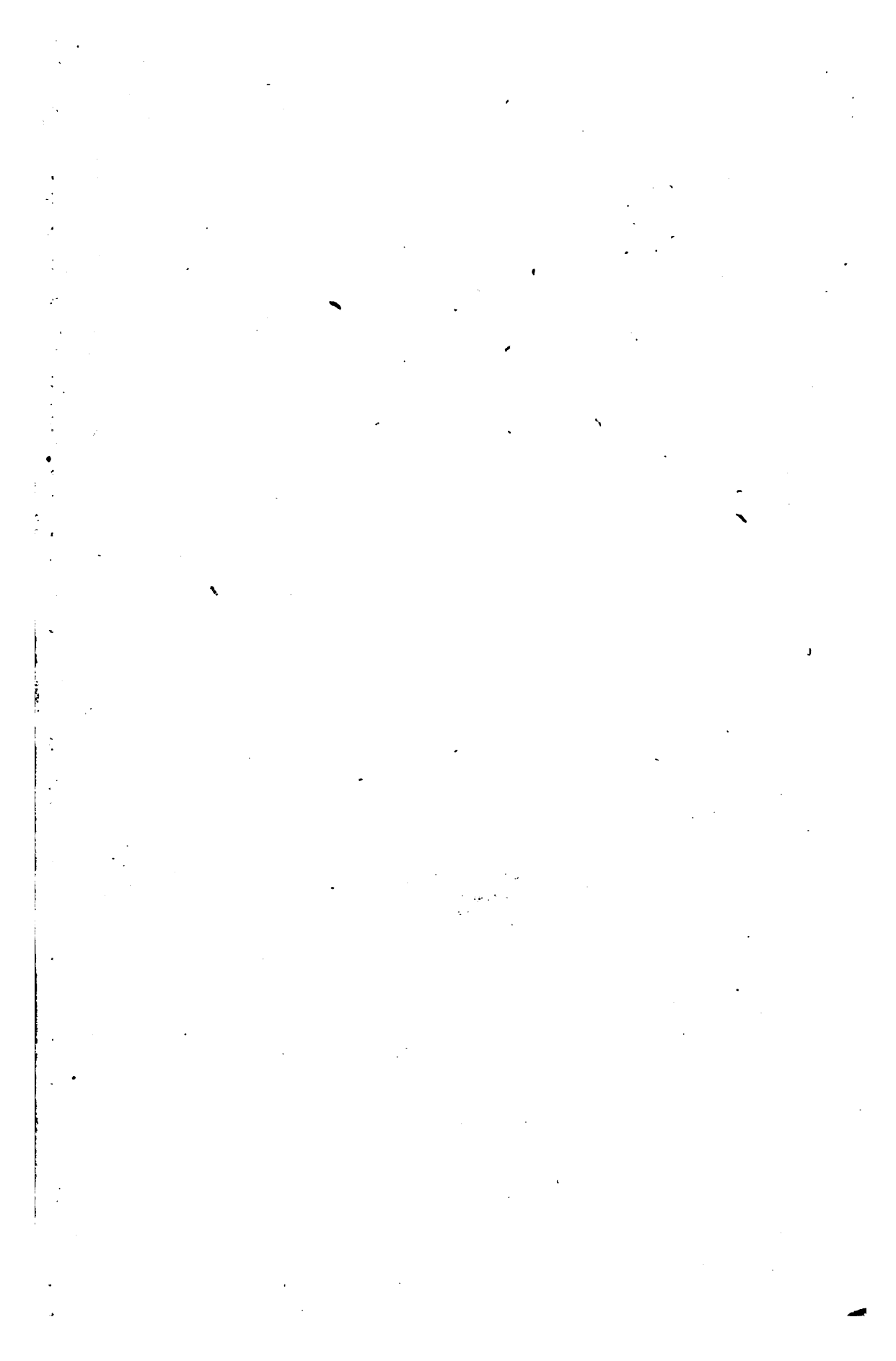
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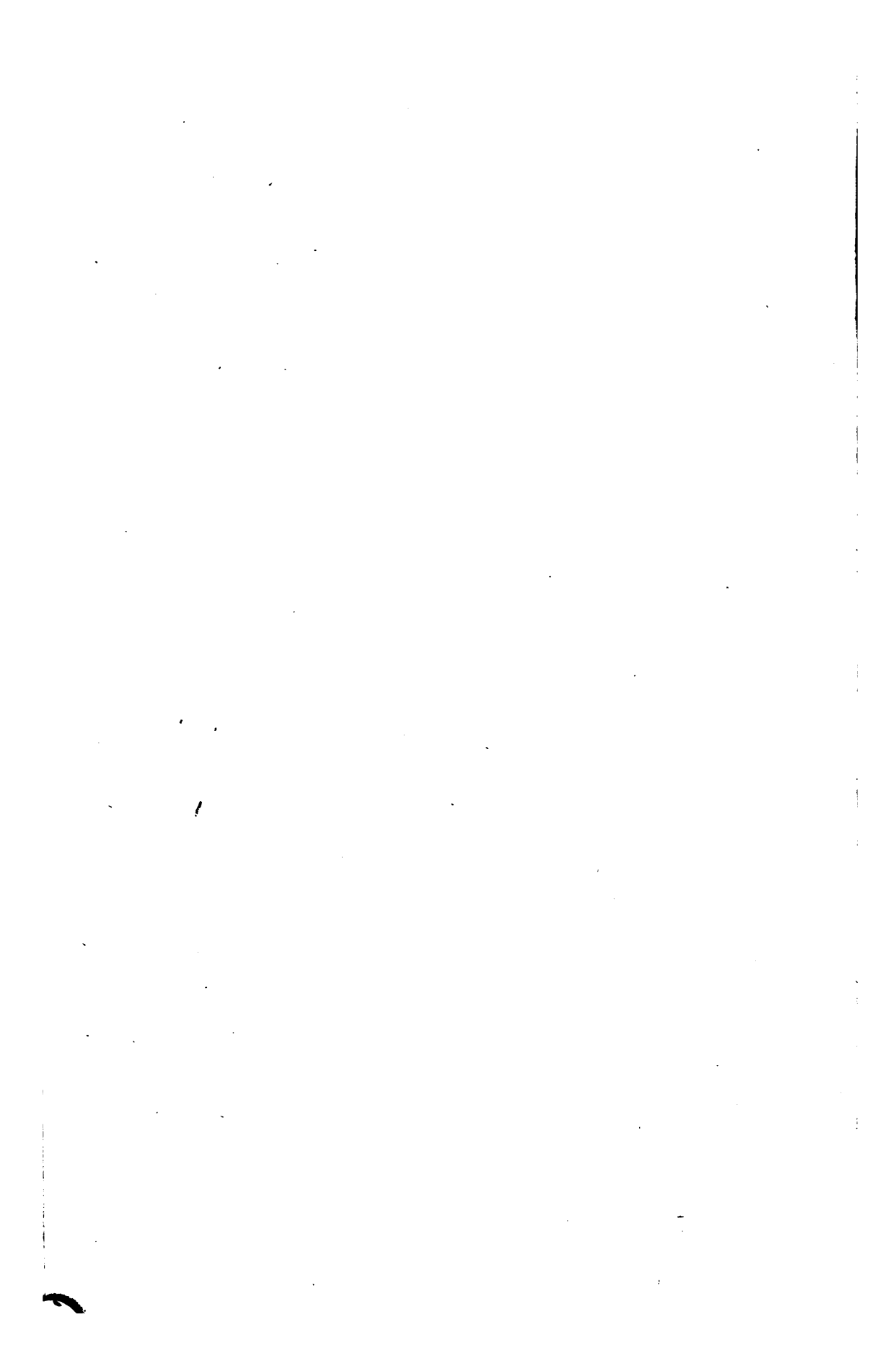
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ACTS, ORDERS AND REGULATIONS

RESPECTING

CROWN LANDS, ETC.,

IN ONTARIO.

COLLECTED AND COMPILED UNDER THE AUTHORITY OF

THE HON. A. S. HARDY,
Commissioner of Crown Lands.

By J. J. MURPHY,
Of the Department of Crown Lands.



TORONTO :
PRINTED BY WARWICK & SONS, 68 AND 70 FRONT STREET WEST,
1890.

REGULATIONS

LANDS, ETC.,

ARIO. -

UNDER THE AUTHORITY OF

HARDY,

of Crown Lands.

PHY,

of Crown Lands.



70 FRONT STREET WEST,

Mar. 1909
1935-4

INTRODUCTORY.

After the Treaty of Peace, concluded at Paris, on the 10th February, 1763, and which secured to Great Britain such extensive and valuable acquisitions in America, the King's Proclamation was issued (7th October, 1763.) erecting the Province of Quebec, and in the instructions addressed to the Governor of the Province, full power and authority were given to settle and dispose of the public lands.

All grants were made under instructions and regulations issued from time to time by the Lords of the Treasury or Colonial Department, and at the discretion of the Governor in Council.

There were Old Regulations prior to 1796; New Regulations 22nd December, 1796, and 13th December, 1802; Regulations 6th July, 1804; Regulations 5th January, 1819; Regulations 1st January, 1820; Regulations 31st January, 1824; Regulations 26th November, 1825; Horse Guards 1st August, 1831 and 15th August, 1834, and Admiralty Office 3rd March, 1832.

The warrants and fiats under the Old Regulations, and authorities for grants were principally in favor of military claimants who served during the revolutionary war, U. E. Loyalists, etc.

The Surveyor-General had general direction of the lands of the Province and in most instances the discretionary power allowed to the Governor in Council was exercised by him, since applicants were compelled to obtain his certificate that the lots for which they applied were open for grant. His department was organized under the King's instructions of 1783 and 1787, and the powers and duties pertaining thereto were further defined by the rules and regulations dated, Council Chamber Quebec, 17th February, 1789.

Samuel Holland was the first Surveyor-General appointed for the Province of Quebec, and on the 8th September, 1764, he appointed John Collins as Deputy Surveyor-General.

On the 22nd December, 1784, he appointed Philip R. Frey to be one of the Deputy Surveyors of lands in the Upper District of the Province, which appointment was enregistered in the register of Detroit by William Montforton, recorder. It appears from a letter addressed by Mr. Holland to Mr. Frey, on the 19th January, 1785, that his appointment was for Niagara and Detroit.

On the 7th July, 1788, John Collins, Deputy Surveyor-General appointed Wm. Chewett at Lake St. Francis, Patrick McNiff at the Ottawa or Grand River, James and Hugh McDonell at the vacant lands

between Elizabethtown and Pittsburgh, Alexander Aitkin at Kingston or Toronto, and Philip Frey at Niagara or Detroit, all Deputy Surveyors to receive claims and applications for land.

By proclamation of the 24th July, 1788, Lord Dorchester added five new districts to the Province, which then stood divided into two districts. They were the District of *Lunenburg*, bounded westerly by a north and south line intersecting the mouth of the River Gananoque, then called the Thames; *Mecklenburgh*, extending as far westerly as to a north and south line intersecting the mouth of the River Trent; *Nassau*, extending westerly to a north and south line intersecting the extreme projection of Long Point with the Lake Erie; *Hesse*, comprehending all the residue of the Province in the western or inland parts thereof; and the District of *Gaspe*, in the lower part of the Province. The first four of these districts were subsequently named *Eastern*, *Midland*, *Home* and *Western*.

The Constitutional Act, 31 George III. Cap. 31, dividing the Province of Quebec into two distinct Provinces of Upper and Lower Canada, was proclaimed by Alured Clarke, on the 18th November, 1791, and Colonel John Graves Simcoe was appointed Lieutenant-Governor of Upper Canada, on the 8th July, 1792. David William Smith, (created a Baronet in 1821), was also appointed Surveyor-General, and during a portion of his incumbency Christopher Robinson, formerly of Virginia, was Deputy Surveyor-General.

The following is a list of Deputy Provincial Surveyors in 1799:

William Chewett, Senior Surveyor.
 Lewis Grant, D. P. S., Eastern District.
 Alexander Aitkin, D. P. S., Midland District.
 Abram Tredell, D. P. S., Western District.
 Augustus Jones, D. P. S., Home-District.
 William Fortune, extra D. S.
 John Stegmann, do.
 William Hambly, do.
 Thomas Welch, do.
 Allan McDonald, do.

After the departure of Mr. D. W. Smith, in 1802, Messrs. Chewett and Ridout superintended the affairs of the department conjointly. Then C. B. Wyatt became Surveyor-General, and subsequently Thomas Ridout was appointed, who held the office till 1829.

W. Chewett was acting Surveyor-General until the appointment of S. R. Hurd in 1832, and the latter held the office till 1836.

John Macaulay was then appointed and remained in office till 1838, when Robert Baldwin Sullivan was appointed. He was succeeded in 1840 by Kenneth Cameron, who was succeeded in 1841 by Thomas Parke. Mr. Parke was the last Surveyor-General as the office was abolished on the 17th March, 1845, by Statute, (8 Vic., Cap. XI.), and the department was consolidated with the Department of Crown Lands.

COMMISSIONERS OF CROWN LANDS.

The first Commissioner of Crown Lands was Peter Robinson, who was appointed by Commission dated, 17th July, 1827, "Commissioner for the sale and management of Crown Lands in the Province of Upper Canada," and his instructions from the Lords of the Treasury were dated 18th July, 1827.

He was also appointed to the office and trust of His Majesty's woods and forests by Commission bearing the same date.

To the Commissioner of Crown Lands was committed the management and disposal of all public lands reported by the Surveyor-General to be open for sale. The purchase moneys of these lands when received were carried to the credit of the funds to which they belonged in distinct books, under the heads of Crown Lands, Clergy Reserves, Military Reserves, Six Nations Indians, Big Island Indians, Port Credit Indians, Munsee Indians, Mississauga Indians and the Wyandotts and other Indians on the Huron Block. An account of the moneys received for licenses and timber duties was likewise kept in his office.

The Hon. Robert Baldwin Sullivan was appointed Commissioner in succession to Mr. Robinson, on the 14th July, 1836, and he held the office up to and subsequently to the Union of the Provinces.

The following is a list of the Commissioners from the Union to the present time, with dates of appointment :

NAME.	FROM.	TO.
Hon. R. B. Sullivan.....	10th February, 1841.....	30th June, 1841.
" John Davidson.....	23rd July, 1841.....	12th October, 1842.
" A. N. Morin.....	13th October, 1842.....	11th December, 1843.
" D. P. Papineau.....	3rd September, 1844.....	7th December, 1847.
" John A. Macdonald.....	8th December, 1847.....	10th March, 1848.
" J. H. Price.....	11th March, 1848.....	27th October, 1851.
" John Rolph.....	28th October, 1851.....	30th August, 1853.
" Louis V. Sicotte.....	17th August, 1853.....	26th August, 1853.
" A. N. Morin.....	31st August, 1853.....	26th January, 1855.
" Joseph Cauchon.....	27th January, 1855.....	30th April, 1857.
" E. P. Taché.....	16th June, 1857.....	24th November, 1857.
" L. V. Sicotte.....	25th November, 1857.....	1st August, 1858.
" A. A. Dorion.....	2nd August, 1858.....	6th August, 1858.
" P. M. Vankoughnet.....	7th August, 1858.....	18th March, 1862.
" George Sherwood.....	27th March, 1862.....	23rd May, 1862.
" Wm. McDougall.....	24th May, 1862.....	29th March, 1864.
Alex. Campbell.....	30th March, 1864.....	30th June, 1867.

SINCE CONFEDERATION.

NAME.	FROM.	TO.
Hon. Stephen Richards.....	1st July, 1867.....	25th July, 1871.
“ Matthew C. Cameron....	25th July, 1871.	21st December, 1871.
“ Richard W. Scott.....	21st December, 1871.	30th November, 1873.
“ Timothy Blair Pardee....	4th December, 1873.....	19th January, 1889.
“ Arthur S. Hardy.....	19th January, 1889.....	

THE ASSISTANT COMMISSIONERS DURING THE SAME PERIOD HAVE BEEN :

NAME.	FROM.	TO.
T. Boutillier.....	19th August, 1841.....	30th April, 1850.
Andrew Russell.....	18th July, 1857.....	20th August, 1869.
Thos. H. Johnson.....	21st August, 1869.....	8th January, 1887.
Aubrey White.....	1st February, 1887.....	

In 1837 the first Land Act for Upper Canada was passed, 7 William IV., Cap. 118, and it was promulgated by Proclamation of the 17th May, 1838. This Act was to continue in force for two years, and to the end of the then next session of the Provincial Parliament. It was extended and continued for a period of five years by 1st Vic., Cap. 14.

An Act for the disposal of Public Lands, 4th and 5th Vic., Cap. 100, was passed in 1841 and reserved for the signification of Her Majesty's pleasure. On the 30th May, 1842, the Royal assent was proclaimed by the Governor-General, Sir Charles Bagot.

An Act to extend the period for payment of Fees on Crown Patents was passed in 1851, 14th and 15th Vic., Cap. 56.

An Act to amend the law for the sale and settlement of the Public Lands, 16 Vic., Cap. 159, was passed in 1853.

23rd Vic., Cap. 2, an Act respecting the sale and management of the Public Lands was assented to on the 23rd April, 1860, and this statute with certain amendments is still in force, Revised Statutes of Ontario, Cap. 24.

The Act, 38 George III., Cap. 5, for the better division of the Province was passed in 1798 and proclaimed on the 1st of January, 1800. It divided the Province into counties and districts.

At the time of the Union of the Provinces there were 349 townships in Upper Canada, and now there are 797 townships named. They represent an area of 41,095,809 acres outlined and surveyed.

The area of the Province roughly estimated, according to the boundaries fixed by the award of the arbitrators, is 127,000,000 acres, leaving, after deducting the quantity now surveyed, an area, in round numbers, of 86,000,000 acres yet untouched.

At present the Commissioner of Crown Lands has control over all matters connected with the sale and management of Crown, clergy, school, free grant and mining lands; the sale of timber berths, issuing licenses to cut timber, collecting timber dues, ground rents, etc., wood ranging and fire ranging; colonization roads; surveys and the examination and admission of Provincial Land Surveyors; and Provincial Fisheries.

CONTENTS.

	PAGE.
Directions to applicants for free grants.....	1
List of townships open for location	5
" " open for sale.....	10
Railway lands.....	11
Mineral lands.....	12
Systems of survey.....	13
General directions.....	16
Public Lands Act.....	21
Pine Tree Regulations.....	32
Forms of affidavits.....	34
Free Grants and Homesteads' Act and Amendments.....	35
" " " Rainy River District.....	43
Free Grant Regulations, 1869.. ..	45
" " " 1875.....	46
Forms of affidavits.....	47
Railway Aid Act, 1889.....	52
" " " 1890.....	56
" " " Regulations thereunder.....	58
General Mining Act.....	63
Form of a fidavit to be filed by applicant.....	72
Mining Operations Act, 1890.....	73
Act respecting timber on public lands.....	87
Act respecting timber licenses affecting registered land.....	92
Act for protecting the public interest in rivers and streams.....	93
Saw Logs Driving Act.....	100
Timber Slide Companies' Act.....	107
" " " " Amendments, 1890.....	120
Ontario Cullers' Act.....	123
Act respecting damage to lands by flooding	127
Crown Timber Regulations.....	185
Timber License.....	189
Crown timber agents.....	141
Act to preserve the forests from destruction by fire.....	142
Description of fire districts.....	145
Circular to license holders.....	146
Act to provide means for extinguishing forest fires.....	147

	PAGE.
Act respecting land surveyors and surveys of lands.....	151
Extract from Land Titles Act—Registration in new districts.....	174
“ “ “ Schedule of rules.....	175
Local acts relating to surveys in Ontario.....	177
Articles of agreement between surveyor and apprentice..	181
Extract from Municipal Act—Title 2, Highways and Bridges.....	183
“ “ “ Title 3, Drainage, etc....	202
Extract from Assessmeent Act—Statute labour in unincorporated townships.....	237
Ditches and Watercourses Act.....	240
“ “ “ Amendment, 1889.....	254
“ “ “ Amendments, 1890.....	256
General instructions upon the location of colonization roads.....	262
Act for the protection of game and fur-bearing animals.....	267
Ontario Fisheries Act.....	273
Fishery Regulations.....	282
Table of close seasons—game and fish.....	285
Fishery overseers.....	286
Economic minerals of Ontario.....	287
Practical suggestions to explorers.....	290
Index.....	293

ONTARIO.

DEPARTMENT OF CROWN LANDS,

The following information is communicated in reference to the manner of acquiring title to the Public Lands in this Province:—

FREE GRANTS AND HOMESTEADS.

1. By the "Free Grants and Homesteads Act," Chapter 25 of the Revised Statutes of Ontario (a copy of which will be found in the Appendix hereto), Public Lands which have been surveyed, and are considered suitable for settlement and cultivation, and not valuable chiefly for minerals or pine timber, may be appropriated as Free Grants; but such appropriations are to be confined to lands within the Districts of Algoma and Nipissing, and that tract or territory lying between the Ottawa River and the Georgian Bay, and comprising the northerly portions of the Counties of Renfrew, Frontenac, Addington, Hastings, Peterborough, Victoria and Simcoe, and the Districts of Muskoka and Parry Sound.

In 1887 the Free Grant system was extended to the Rainy River District by "The Rainy River Free Grant and Homesteads Act," Revised Statutes of Ontario, Cap. 26, and certain lands therein were opened for location by an Order in Council dated 12th October, 1889.

2. To obtain a Free Grant, the applicant must make application to the local Crown Land agent, in whose agency the land desired is situated, and deposit with him the necessary affidavits (see Forms Nos. 4, 5, 6 and 7, in Appendix). Although no fees are charged by the Department, or allowed to the land agents for locating, yet if required to prepare the necessary affidavits, the agent may make a reasonable charge for so doing.

3. Two hundred acres is the limit of the Act, therefore no individual can obtain more than that quantity as a Free Grant, and if the land selected exceeds the 200 acres, the applicant must pay for the overplus at the price fixed by the Regulations. *A single man over eighteen years of age, or a married man without children under eighteen residing with him, is entitled to a grant of 100 acres.* But in case it shall be shown by satisfactory evidence that a considerable proportion of the land selected by an applicant who comes under either of these headings, cannot be made available for farming purposes on account of rock, swamp or lake, the Commissioner of Crown Lands may make an allowance for such waste land, and may increase the quantity of land located to such applicant to any number of acres not exceeding in the whole 200 acres. *The male head of a family, or the sole female head of a family, having a child or children under eighteen years of age residing with him or her, may be located for 200 acres as a Free Grant; and may also purchase an additional 100 acres at the rate of fifty cents per acre, cash.*

In certain townships, however, situated in the Districts of Algoma and Thunder Bay, and which are subdivided into sections and quarter sections, or into lots containing 160 or 320 acres each, the locatee, whether he be a single man over eighteen, or the head of a family with children, is entitled to 160 acres only; that is a full quarter section or a half lot, as the case may be; and he may purchase an additional 160 acres at the rate of fifty cents per acre, cash.

In the new *District of Rainy River* the male or sole female head of a family with children under eighteen is entitled to 160 acres, or a quarter section as a Free Grant, and may purchase an adjoining half quarter section, or 80 acres at one dollar per acre, payable one-fourth cash and the balance in three equal annual instalments with interest; and a male over eighteen years without children is entitled to 120 acres or a half quarter section, together with an adjoining quarter of a quarter section as a Free Grant, and may purchase an adjoining half quarter section or 80 acres at the same price and upon the same terms.

Upon receipt of the necessary affidavits, the agent will, if the land selected be open for location, and there be no adverse claim thereto, enter the locatee for it on the records of his office, and at the end of the current month he will return the location to the Department of Crown Lands.

In case a party has settled on Government land before the township has been surveyed, or appropriated under the Free Grants Act, he should, immediately after it is opened for location, apply to the local agent and get located, as he will have no recognized title, and his occupation of the land will not count until this action has been taken.

4. Upon completion of his location, the locatee may enter upon and occupy his land, and may commence his improvements; and the Regulations require him to do so within one month.

5. The locatee will not be entitled to his patent until the expiration of five years from the date of location. and he must then make proof that the settlement duties have been fully completed. The settlement duties required on each location are as follows, viz. :—

(1) *To have at least fifteen acres cleared and had under cultivation, of which two acres at least are to be cleared and cultivated annually during the five years;*

(2) *To have built a habitable house, at least 16 by 20 feet in size;*

(3) *And to have actually and continuously resided upon and cultivated the land for five years after location.*

The same settlement duties are required in the *District of Rainy River*, with the exception that the patent may issue at the expiration of three years from the date of location instead of five.

A locatee is not bound to remain on the land all the time during the five years; but may be absent on business or at work for, in all, not more than six months in any one year. He must, however, make it his home, and clear and cultivate the quantity of land required (two acres at least) each year.

Where a locatee holds two lots (200 acres) he may make the requisite improvements on either one or both, as he finds it most convenient.

A locatee who purchases an additional 100 acres under the Regulations must, within five years from the date of sale, clear 15 acres thereon, and cultivate the same before he will be entitled to the patent; but he is not required to build a house or reside on the purchased lot, where he holds it in connection with a Free Grant. By Section 2 of the Act to amend the Free Grants and Homesteads Act, (Cap. 6, 1890,) the clearing of the fifteen acres on the purchased lot may also be dispensed with in case it is adjacent to the purchaser's homestead, is not valuable chiefly for pine timber, and is suited principally for grazing purposes or as a fuel reserve, and a patent may issue for said purchased lot at the expiration of the time required by law provided the purchaser has 30 acres cleared upon his homestead.

The proof of the performance of the settlement duties must be: the affidavit of the locatee himself, supported by the testimony of at least two disinterested parties, which affidavits are to be filed with the local agent, who, if satisfied as to the correctness of the statements contained therein, recommends the issue of the patent, and transmits the application to the Department. (See Form No. 8 in Appendix.)

6. In case a locatee has, after the issue of his patent, absolutely and in good faith parted with the land patented to him as a Free Grant, he may take up another location by applying to the local agent, and making affidavit setting out the facts.

7. In case the locatee fails to perform the settlement duties required by law, his location is liable to forfeiture, and may be cancelled by the Commissioner of Crown Lands. Applications for cancellations must be made through the local agent, and be supported by the affidavits of the applicant and at least two credible witnesses, who will show what the present position of the lot is: whether the locatee ever occupied or improved, and, if so, to what extent, and the value of the improvements; when he ceased to occupy; and his address, if known. Upon receipt of this evidence the agent will, if he can ascertain the address of the locatee, notify him of the application, and call upon him to disprove the allegations, or show cause why his location should not be cancelled, within thirty days. At the expiration of that time the agent will transmit the evidence, with anything he may have received from the locatee in reply, and his own report to the Department. (See Form No. 9.)

8. The assignment or mortgage of a homestead from a locatee to another party before the issue of his patent is invalid, and cannot be recognized by the Department. This does not however, apply to the devise of a Free Grant lot by will, nor to transfers of land by a locatee for church, cemetery or school purposes, or the right of way of railroads.

9. All pine trees and minerals on land located or sold under the Free Grants Act are reserved from the location or sale, and are the property of the Crown; and the Commissioner of Crown Lands may at any time issue a license to cut the pine on such land. The locatee may, however, cut and use such pine trees as he requires for building and fencing on his land, and may also cut and dispose of any pine trees he meets within the actual process of clearing his land for cultivation; but any trees so disposed of are subject to the payment of the same dues as are payable by license-holders.

Where a locatee holds two or more lots or parts of lots he may cut

the pine trees necessary for building or fencing, on any one or more of them, and may use the said pine trees on the same lot or on any of the others.

In the *District of Rainy River* all trees remaining on the land at the expiry of the timber license in force when the patent issues, become the property of the locatee.

Holders of timber licenses have the right to haul their timber over the uncleared portion of any land located or sold, and to make such roads as may be necessary for the purpose, and to use all slides, portages and roads, and to have free access to all streams and lakes.

10. The Crown reserves the right to construct on any land located or sold, any Colonization Road, or deviation from the Government allowance for road; and to take from such land, without compensation, any timber, gravel or material required for the construction or improvement of any such road.

11. Any conveyance, mortgage or alienation (except a will) of the land located, by a locatee after the issue of patent, and within twenty years from location, will be invalid unless it be by deed in which his wife is one of the grantors, and unless it be duly executed by her.

12. The land while owned by the locatee, his widow or heirs, shall be exempt from liability for debt during twenty years from the date of location. This exemption does not, however, extend to a sale for taxes legally imposed.

13. When a Free Grant locatee dies before the completion of his title, his representatives may continue the settlement duties and obtain a patent at the proper time upon filing the requisite proof. If he died before the 1st July, 1886, intestate, evidence is required of the date of death and that he died intestate, giving the name of his widow, and the number and names of all his children, and if he had no wife or children, the name of his heir must be given; if he made a will, it must be sent in with proper proof of due execution according to law. If he died after the 1st July, 1886, probate or letters of administration to the real and personal estate, as the case may be, must be sent.

Where a locatee dies, whether before or after issue of patent, leaving a widow, she is entitled to the land during her widowhood in lieu of dower, unless she prefers to take her dower instead.

14. In making application for land, and in filing proof in support of applications for cancellation of a location, or for issue of patent, the applicant will save time and unnecessary trouble by filing his papers with, or mailing them to, the Crown Land Agent in whose agency the land is situated, as on account of the agent's local knowledge of the lands he has to deal with, the Department requires that his certificate be attached to all such applications.

15. Lands located or sold under the Free Grants and Homesteads Act or the regulations made thereunder, are liable to taxation from the date of such location or sale, and where taxes assessed on such land are in arrears for three years, the interest of the locatee or purchaser may be sold in the manner prescribed by law. When the tax-purchaser receives his deed, unless legal proceedings be taken to question it by some person interested within two years from the date of sale, he acquires the right

and interest of the locatee or purchaser, and may obtain a patent on completion of the original conditions of location or sale.

16. In order to have his claim recognized, a tax-purchaser should file his deed in the Department, and two years after the date of the sale for taxes, should file evidence showing that no action has been taken to question his title, that there is no adverse claim on the ground of occupation or improvements, and that all arrears of taxes have been paid since he purchased. (See Revised Statutes, (1887,) Cap. 193, sections 159, 160 and 171, and Cap. 24, section 18.) And in order to obtain a patent for the land, as a free grant, the tax-purchaser must also show that he has performed the settlement duties required by the Free Grants and Homesteads Act, and that he has not already received the benefit of the said Act, or if he has received a grant of all the land which it allows him, that he has *bona fide* and absolutely parted with the same, and is entitled to a second location.

TOWNSHIPS OPEN FOR LOCATION UNDER THE FREE GRANTS AND HOMESTEADS ACT.

There have been 154 townships opened for location as free grants, and they are divided into 19 agencies. The following is a list of the said townships, with the names and addresses of the local agents and directions how to reach the agencies:

1. MUSKOKA AGENCY.—20 TOWNSHIPS.

Baxter,	Monck,	Sinclair,
Brunel,	Morrison,	Sherborne,
Chaffey,	Muskoka,	Stephenson,
Draper,	McLean,	Stisted,
Franklin,	Oakley,	Watt,
Macaulay,	Ridout,	Wood,
Medora,	Ryde.	

Agent—J. W. Dill, Bracebridge.

The route is from Toronto to Bracebridge by the Northern, and the Northern and Pacific Junction Railways.

2. PARRY SOUND AGENCY.—10 TOWNSHIPS.

Cardwell,	Humphrey,	Mackenzie,
Carling,	McConkey,	Shawanaga,
Ferguson,	McKellar,	Wilson.
Hagerman,		

Agent—Mrs. Theresa Mackay, Parry Sound.

In summer, the best route is from Toronto to Penetanguishene or Midland, by the Northern or Midland Railways and thence to Parry Sound by steamer. In winter, from Toronto to Utterson by the Northern Railway, and thence by stage to Parry Sound, a distance of 48 miles.

3. MAGANETAWAN AGENCY.—10 TOWNSHIPS.

Chapman,	Lount,	Pringle.
Croft,	Machar,	Strong,
Ferrie,	Mills,	Spence,
Gurd,		

Agent—S. G. Best, Maganetawan, which is situated on the Rosseau and Nipissing Road, in Chapman Township.

The route is from Toronto to Burk's Falls by railway, in summer, from there to Magnetawan, 20 miles, by steamer. In winter, from Burk's Falls to Maganetawan by stage, 14 miles.

4. EAST PARRY SOUND AGENCY.—5 TOWNSHIPS.

Bethune,	Perry,	Proudfoot.
Armour,	Jolly,	

Agent—E. Handy, Emsdale, which is situated in the Township of Perry.

The route is by railway; Emsdale being a station on the Northern & Pacific Junction Railway.

5. NIPISSING AGENCY.—5 TOWNSHIPS.

Hardy,	Nipissing,	Patterson,
Himsworth,	Laurier,	

Agent—J. S. Scarlet, Powassan.

The route from Toronto is by Northern Railway to Powassan. From the east by the Canadian Pacific Railway to Callender, thence by the Northern Railway to Powassan.

6. MATTAWA AGENCY.—5 TOWNSHIPS.

Bonfield,	Ferris,	Papineau,
Calvin,	Mattawan.	

Agent—B. J. Gilligan, Mattawa.

The route to Mattawa is by the Northern & Pacific Junction Railway, or the Canadian Pacific Railway.

7. MINDEN AGENCY.—7 TOWNSHIPS.

Anson,	Lutterworth,	Stanhope,
Glamorgan.	Minden,	Snowdon,
Hindon.		

Agent—William Fielding, Minden.

The route is from Toronto to Cobocnck by the Midland Railway, and thence to Minden by stage; or from Toronto or Port Hope to Kinmount by the same railway, and thence to Minden by stage.

8. HALIBURTON AGENCY—5 TOWNSHIPS.

Galway,	McClure,	Wicklow.
Cavendish,	Bangor,	

Agent—Charles R. Stewart, Haliburton.

The route is from Port Hope or Toronto to Haliburton by the Midland Railway.

9. PETERBOROUGH OR BURLEIGH ROAD AGENCY—
4 TOWNSHIPS.

Anstruther,	Cardiff,	Monmouth.
Chandos,		

Agent—D. Anderson, Apsley, in the Township of Anstruther

The route is from Toronto or Port Hope to Lakefield by the Grand Trunk, Midland Division, thence to Apsley (30 miles) by stage, which runs tri-weekly. In summer steamers run from Lakefield to Julian's Landing, thence to Apsley (16 miles) by daily stage.

10. NORTH HASTINGS AGENCY—9 TOWNSHIPS.

Carlow,	Faraday,	Mayo,
Cashel,	Herschel,	Monteagle,
Dungannon,	Limerick,	Wollaston.

Agent—J. R. Tait, L'Amable, in the Township of Dungannon.

The route is from Trenton by the Central Ontario Railway to Rathbun station, and thence by the daily mail stage to L'Amable, a distance of 11 miles.

11. FRONTENAC AND ADDINGTON AGENCY—9 TOWNSHIPS.

The Crown Lands in this agency have recently been withdrawn from the Free Grant List and are now open for sale under the "Railways Aid Act." (See page. 12)

Agent—G. W. Dawson, Plevna, in the Township of Clarendon.

The route is from Kingston, by the Kingston and Pembroke Railway, to Lavant station, or from Toronto by the Canadian Pacific Railway to Sharbot Lake, thence by the Kingston and Pembroke to Lavant station, and from Lavant station to Plevna (21 miles) by stage, which runs tri-weekly.

12. NORTH RENFREW AGENCY—9 TOWNSHIPS.

Alice	Head,	Petewawa,
Buchanan,	McKay,	Rolph,
Fraser,	Maria,	Wylie.

Agent—J. D. Kennedy, Pembroke.

The route is from Ottawa or Brockville to Pembroke by the Canadian Pacific Railway.

13. CENTRE RENFREW AGENCY—3 TOWNSHIPS.

Brougham,	Grattan,	Richards.
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Agent—James Reeves, Eganville.

The route is from Brockville to Cobden by the Canadian Pacific Railway, and thence to Eganville by stage.

14. SOUTH RENFREW AGENCY—8 TOWNSHIPS.

(The townships in this agency are now open for sale under the "Railways Aid Act." See page 12.)

Agent—John Whelan, Brudenell, in the Township of Sebastopol.

The route is from Brockville or Ottawa to Cobden by the Canadian Pacific Railway, and thence to Brudenell by stage.

15. BRUCE MINES AGENCY.

Plummer,

Agent—John F. Day, Bruce Mines.

The route is from Toronto to Collingwood or Owen Sound by railway, and thence by steamer to Bruce Mines, and in winter by the Northern and Pacific Junction Railway to North Bay, and thence by the Algoma Branch of the Canadian Pacific Railway to Bruce Mines.

16. ST. JOSEPH ISLAND AGENCY.

St. Joseph Island.

Agent—George Hamilton, Richards Landing.

The route is the same as to Bruce Mines.

17. SAULT STE. MARIE AGENCY—3 TOWNSHIPS.

Korah, Parke, Prince.

Agent—Charles P. Brown, Sault Ste. Marie.

The route is from Toronto to Collingwood or Owen Sound by railway, and thence to the Sault by steamer, or in winter by the Northern Railway to North Bay, and thence by the Canadian Pacific Railway to Sault Ste. Marie.

18. THUNDER BAY AGENCY—2 TOWNSHIPS.

Crooks, Dawson Road.

Agent—J. F. Ruttan, Port Arthur.

The route is from Toronto to Collingwood, Owen Sound or Sarnia by railway, and thence by steamer to Port Arthur, or by the Canadian Pacific Railway to Port Arthur.

19. RAINY RIVER AGENCY—20 TOWNSHIPS.

These townships were surveyed by the Dominion Government while the title to the territory was in dispute, and the usual method adopted by that Government in laying out new townships was followed. They were designated by numbers instead of names. When the title of the Ontario Government was confirmed, and the townships were appropriated under the Free Grants Act, it was considered advisable to make them uniform with other townships in the Province, and they were accordingly named.

In order to prevent any mistake in identifying them, both the numbers and the names are given in the following list:—

NAME.	NUMBER.			
Curran.....	Township No. 3, Range 22 East.			
Atwood.....	"	4	"	22 "
Blue	"	3	"	23 "
Worthington	"	4	"	23 "
Nelles	"	3	"	24 "
Dilke	"	4	"	24 "
Patullo	"	3	"	25 "
Morley	"	4	"	25 "
Morley, South.....	"	5	"	25 "
Tait	"	3	"	26 "
Shenston	"	4	"	26 "
Roseberry.....	"	5	"	26 "
Barwick	"	5	"	27 "
Lash	"	5	"	28 "
Aylsworth	"	6	"	28 "
Devlin	"	5	"	29 "
Woodyatt.....	"	6	"	29 "
Crozier	"	5	"	30 "
Roddick	"	6	"	30 "
McIrvine	"	5	"	31 "

The Rainy River District is reached from the east by the Canadian Pacific Railway to Rat Portage, which is the principal place in the district. It is situated at the head of the Lake-of-the-Woods (137 miles east of Winnipeg), and has a population of about 800. During the season of navigation a steamer runs south across the Lake-of-the-Woods 80 miles—to the mouth of the Rainy River, and thence easterly along the river—80 miles to Fort Francis.

LANDS WHICH ARE OPEN FOR SALE.

In the following townships in the District of Algoma, the lands are sold at the rate of *twenty cents* per acre cash, subject to the conditions of (1) actual residence on the land purchased for three years from the date of purchase; (2) clearing and having under cultivation and crop at least ten acres for every 100 acres purchased; and (3) building a habitable house 16 by 20 feet at least. Pine trees are reserved from such sales until the 30th April next following the issue of the patent. Applicants must file with the Crown Land agent affidavits. See forms 1 and 2 in Appendix.

1. BRUCE MINES AGENCY—7 TOWNSHIPS.

Coffin,
Galbraith,
Haughton.

Johnson,
Lefroy,

Rose,
Tarbutt,

Agent—John F. Day, Bruce Mines.

2. THESSALON AGENCY—8 TOWNSHIPS.

Bright,
Day,
Gladstone,

Kirkwood,
Parkinson,
Patton.

Thompson,
Wells,

Agent—William L. Nichols, Thessalon.

The route is the same as to Bruce Mines (see page 8).

3. SPANISH RIVER AGENCY—5 TOWNSHIPS.

Victoria,
Hallam,

Salter,
May.

Shedden,

Agent—Duncan G. McDonald, Walford.

Walford is in the Township of Victoria, and is reached by the Algoma branch of the Canadian Pacific Railway.

The lands in the following Townships, in the Districts of Nipissing and Algoma, are open for sale at *fifty cents* per acre, one-half cash and the balance in two years, with interest at six per cent., subject to the conditions of (1) actual residence on the land purchased for four years from date of purchase; (2) clearing and putting under cultivation ten acres for every hundred; and (3) building a habitable house 16x20. The sale is also subject to the pine tree regulations.

(See affidavit forms 1 and 2 in Appendix.)

STURGEON FALLS AGENCY.—3 TOWNSHIPS.

Caldwell, Springer, McKim.

Agent—J. D. Cockburn, Sturgeon Falls.

Sturgeon Falls is a station on the Canadian Pacific Railway, west of Lake Nipissing.

SUDBURY AGENCY.—3 TOWNSHIPS.

Balfour, Dowling, Rayside.

Agent—Thos. J. Ryan, Sudbury.

Sudbury is a station on the Canadian Pacific Railway, which runs through these townships.

RAILWAY LANDS.

By chapter 35 of the Statutes of Ontario for 1889, called "An Act respecting Aid to certain Railways," it was provided that a tract of land at least ten miles in width on each side of the said railways should be set apart for the purpose of being sold and the proceeds applied in forming a fund to recoup the Province in respect of moneys expended in aiding railways.

The lands in the following townships are within the ten mile belts referred to, and are open for sale at the rate of two dollars per acre, upon the following terms and conditions:—when such lands possess a mineral value they will be sold at \$2 per acre cash under the Mining Act, and the patent will be issued at once; and when suitable for agricultural purposes, they will be sold at \$2 per acre payable one third cash, and the balance in two equal annual instalments, with interest at six per cent. The purchaser will be entitled to a patent at the expiration of two years from the date of sale upon completion of settlement duties, viz.: two years actual occupation, clearing and having under crop ten acres for every hundred acres, and the erection of a habitable house 16x20. The pine timber is reserved except what may be necessary to the purchaser for building and fencing.

PARRY SOUND AGENCY.

Cardwell (part), McKellar (part), Foley,
Christie, Monteith, McDougall.
Humphrey (part),

BRACEBRIDGE AGENCY.

Chaffey (part), Stisted (part),

MAGANETAWAN AGENCY.

Spence (part),

Ryerson.

EAST PARRY SOUND.

Armour (part),

McMurrich

Perry (part).

FRONTENAC.

Abinger,
Ashby,
Effingham,Canonto, South,
Clarendon,
Miller,Canonto, North,
Denhigh,
Palmerston.

HASTINGS.

Bangor (part).

SOUTH RENFREW.

Brudenell,
Matawatchan,
Sebastopol,Griffith,
Radcliffe,
Sherwood,Lyndock,
Raglan,

CENTRE RENFREW.

North Algona,
Hagarty,South Algona,
Wilberforce,Grattan (part),
Richards (part).

NORTH RENFREW.

Fraser (part).

STURGEON FALLS.

Widdifield,
Stewart,Mulock,
Notman,Merrick,
Blyth.

SPANISH RIVER.

Baldwin,
South half of Nairn,Foster,
South half of Lorne.

Merritt,

THUNDER BAY.

Blake,
Neebing,
Strange,
Marks,Gillies,
O'Connor,
McIntyre,
Oliver.Lybster,
Paipoonge,
Connec.

MINERAL LANDS.

Public lands, which are open for sale, may be sold under "The General Mining Act" (Revised Statutes of Ontario, Cap. 31), at the rate of one dollar per acre, cash, in the Huron and Ottawa territory if not in

any of the Railway townships already named, and two dollars per acre, cash, in the territory north and north-west of the River Mattawan, Lake Nipissing and French River. The patent is issued upon payment, and contains a reservation of all pine trees standing or being on the land. The pine continues to be the property of the Crown, who may at any time issue a license to cut it, and the party holding the license is empowered to enter at all times upon the land, cut and remove it, and make all necessary roads for that purpose. (See Mining Act in Appendix.)

Applications to purchase land under the Mining Act should be made direct to the Department, and should be accompanied by the purchase money, together with affidavits of at least two credible and disinterested parties, showing that the land is unoccupied and unimproved (except by or on behalf of the applicant), and that there is no claim thereto adverse to his on the ground of occupation, improvements or otherwise. (See Form in Appendix, No. 10.)

Public lands in the unsurveyed territory may also be purchased under the Mining Act at the rate of two dollars per acre cash, but before the application will be entertained, the applicant must, at his own cost, have his "mining location" surveyed by a Provincial land surveyor who must connect it with some known point or boundary in previous surveys, so that it may be laid down on the office maps in the Department. The "mining location" must be rectangular in shape, and the bearings of the outlines due north and south, and due east and west astronomically, and it may be of the following dimensions, namely: 80 chains in length by 40 chains in width, containing 320 acres, or 40 chains square, containing 160 acres, or 40 chains in length by 20 chains in width, containing 80 acres, or 20 chains in length by 20 chains in width containing 40 acres. The surveyor's plan, field notes and description with the purchase money should accompany the application.

In case a party should desire to purchase public land which has been surveyed, but is not within the jurisdiction of any Crown Land agent, he should make his application direct to the Department, and support it by the affidavits of at least two credible and disinterested persons. These affidavits should set out all facts in connection with the land which he seeks to purchase, and especially whether it has ever been occupied, whether occupied at the time the application is made, and, if so, by whom, and when such occupation commenced; whether any improvements have been made on said land, and, if so, the nature and extent of the same, and by whom and when they were made; and also, whether there is any claim made thereto adverse to that of the applicant, and based on the ground of occupation or improvements. If the applicant has acquired the interest or claim of some previous occupant, he should show the fact and file an assignment.

SYSTEM OF SURVEY.

The following diagrams will illustrate the mode in which surveys are performed and townships laid out in the new parts of this Province. The first shows the form of a township as laid out in the Huron and Ottawa territory, or that territory lying between the Ottawa River and the Georgian

ARKS.

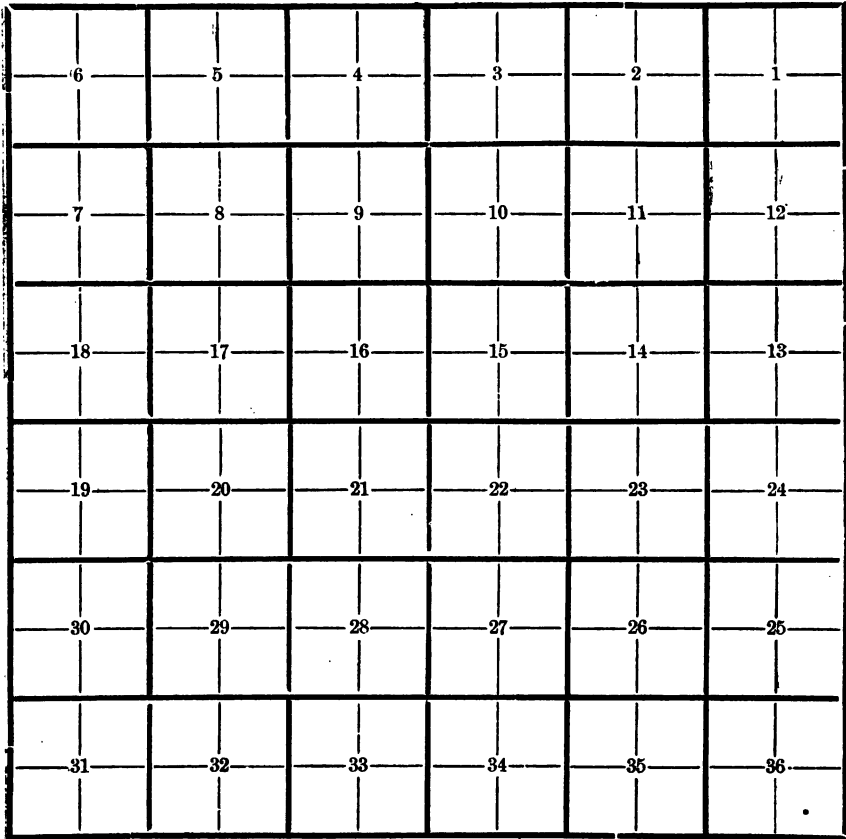
as, but the lots are sometimes
ship instead of from the West

21 22 23 24 25 26 27 28 29 30 31 32 33 34 35

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fe, which he is to blaze in a con-
dary Tree), and to enter the
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t, he is to blaze it on four sides
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the township.

ns in width by fifty chains in
There is an allowance for
alternate concession and every

Some townships on the north shores of Lakes Huron and Superior and the townships in the Rainy River District have been laid out on the following system :



This Diagram exhibits the thirty-six sections of a township.

The country to be surveyed is first divided by meridians, six miles distant from each other, and then again by a system of East and West lines also six miles from each other. The country is thus divided into equal squares which are called townships. Each township is a square six miles on a side, and contains thirty-six square miles.

It is sub-divided into thirty-six sections of six hundred and forty acres, or one square mile each, and they are numbered from the north-east angle. There are no road allowances staked off on the ground, but five per cent. of the area is reserved for roads.

A modification or variation of this system is, however, now generally adopted in the new townships of the districts of Algoma and Thunder Bay, in which the old and familiar names of "lots and concessions" have been retained, while the outlines of the township remain the same. The lots are divided so as to contain three hundred and twenty acres, or half a section each, and like the section townships, no road allowances are staked off, but five per cent. of the area is reserved for roads in the patents.

3. Each letter should be confined to one subject, *the post office address should be given, and the signature distinctly written.* In every subsequent letter the number of the lot and concession, and the name of the township should be repeated.

4. Where application is made for letters patent, the applicant should give his name in full, with place of residence and occupation, so that they may be set out in the patent; and in case the applicant be a married woman, the name, residence and occupation of her husband should also be given,

5. In case a patent has been lost or destroyed, the party interested in the land may obtain either an exemplification or a certified copy of such patent by making application to the Hon. The Provincial Registrar. The fees for same are \$8.25 for the former, and \$2.50 for the latter, which should accompany the application.

6. Patents issued for lands in the Districts of Muskoka, Parry Sound, Nipissing, Algoma, Thunder Bay and Rainy River, are not sent to the patentees now as was formerly done. Since the 1st January, 1888, these districts have been brought under the operation of the "Land Titles Act," (Revised Statutes of 1887, Cap. 116, sec. 141), and the patents are required to be sent to the Local Masters of Titles, from whom certificates of title are to be obtained. The following are the names and addresses of the Local Masters:

Muskoka District	.....	John E. Lount,	.....	Bracebridge.
Parry Sound	"	.....	P. McCurry,	.....
Nipissing	"	.....	Wm. Doran,	.....
Algoma	"	.....	Hon. W. McCrear,	.....
Thunder Bay,	"	and	} John M. Munro	.....
Rainy River	"	....		Port Arthur.

7. Affidavits required in land matters may be made before any Crown Land Agent, Commissioner for taking affidavits, Notary Public or Justice of the Peace.

8. When wills or assignments are sent to the Department, their execution must be attested by the affidavit of the subscribing witness.

9. When application is made to the Department for a fractional part of a lot for any purpose, such as a site for a school, church, cemetery, etc., the applicant should furnish a plan of the same by a Provincial Land Surveyor, showing its connection with the original survey, giving bearings and distances of the sides, and if broken by lake or river, the traverse lines by which the area was determined; and also a description, by metes and bounds, of said fractional part by the surveyor, for insertion in the patent. If the title to the lot of which it is a part be still in the Crown, the applicant must show by affidavit that there is no adverse claim on the ground of occupation or improvements, and if it be sold or located, an assignment from the owner must be filed.

10. In remitting money to the Department, it may be deposited in any branch of the Canadian Bank of Commerce or the Ontario Bank, and the draft and certificate sent by mail to the Commissioner of Crown Lands, Toronto; or if there be no agency of any of these banks convenient, it may be sent by post office order. Money remitted by letter is at the risk of the sender.

APPENDIX.

PART I.

ACTS AND REGULATIONS RESPECTING CROWN LANDS.

*EXTRACTS FROM REVISED STATUTES:
OF ONTARIO—1887.*

CHAPTER 24.

**An Act respecting the Sale and Management of Public
Lands.**

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| <p>SHORT TITLE, s. 1.
INTERPRETATION, s. 2.
CROWN LANDS DEPARTMENT, AND
OFFICERS AND AGENTS CON-
NECTED THEREWITH, ss. 3-10.
ORDERS IN COUNCIL, s. 11.
CLAIMS TO LANDS UNDER FORMER
ACTS, ETC., s. 12.
CROWN LANDS MAY BE SET APART
FOR CERTAIN PUBLIC PURPOSES,
s. 13.
GRANTS, SALES AND LICENSES OF
OCCUPATION, ss. 13-21.
Price to be fixed by Lieutenant-
Governor in Council, s. 14.
Licenses of occupation to intend-
ing purchasers, &c., s. 15.
Licenses before 23rd April, 1860,
s. 16.
Registration of assignments of
claim in the C. L. Department,
s. 17.
Tax deeds may be acted upon by
Department and patents issued,
ss. 18-20.
Commissioner may decide claims
by heirs, &c., of deceased no-
minees, s. 21.
FORFEITURE OF CLAIMS.
Cancellation of sales for fraud, s.
22.</p> | <p>Recovery of possession, s. 23.
Recovery of rent in arrear,
s. 24.
PATENTS ISSUED IN ERROR, ETC.
Where clerical errors, new patent
may issue, s. 25.
Where double or inconsistent
grants, purchase money return-
ed or other lands assigned,
s. 26.
Compensation where deficiency of
land by means of false survey,
ss. 27-28.
Registration of judgment avoid-
ing patent, s. 29.
REDUCTION IN PRICE OF CERTAIN
LANDS SOLD BEFORE 1ST JULY,
1867, ss. 30-34.
TRANSMISSION OF LISTS OF PUBLIC
LANDS FOR REGISTRATION AND
ASSESSMENT PURPOSES.
Assessment of lands unpatented,
but which have been sold, etc.,
s. 35.
List for Treasurers, s. 36.
List for Registrars, s. 37.
PENALTIES.
Employees of C. L. Department
trafficking in scrip or taking
fees, s. 38.</p> |
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Agents giving false information, s. 39.

MISCELLANEOUS.

Notices in respect to Crown lands, how given, s. 40.

Publication of list of lands for sale, s. 41.

Affidavits for purposes of this Act, before whom may be made, ss. 42-44.

Attested copies of departmental records to be evidence, s. 45.

Non-observance of certain conditions not to affect titles to lands granted before 23rd April, 1860, s. 46.

Sales and appropriations of water lots declared to be legal, s. 47.

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:—

Short title.

1. This Act may be cited as "*The Public Lands Act.*" R. S. O. 1877, c. 23, s. 1.

Interpretation of the term "Public Lands."

2. In the construction of this Act the term "Public Lands" shall be held to apply to lands heretofore designated or known as Crown Lands, School Lands, or Clergy Lands, which designations, for the purposes of administration, shall still continue. R. S. O. 1877, c. 23, s. 2.

CROWN LANDS DEPARTMENT.

Department and Commissioner of Crown Lands.

3. There shall continue to be a Department for the management and sale of the Public Lands and Forests, to be called "The Department of Crown Lands;" and the same shall be presided over by "The Commissioner of Crown Lands" for the time being. R. S. O. 1877, c. 23, s. 3.

Assistant Commissioner of Crown Lands—his appointment, duties and oath of office.

4. There shall continue to be an "Assistant Commissioner of Crown Lands," who shall be appointed from time to time, as a vacancy occurs, by the Lieutenant-Governor in Council, and shall perform such duties in the Department as may be assigned to him by the Lieutenant-Governor in Council, or the Commissioner of Crown Lands, and shall preside over the Department and discharge therein the duties of the Commissioner of Crown Lands in the absence of that officer or in the case of a vacancy in the office of Commissioner, and shall, before entering on the duties of his office, take an oath faithfully to discharge the same, which oath shall be administered by the Commissioner of Crown Lands, or any person appointed by the Lieutenant-Governor for that purpose. R. S. O. 1877, c. 23, s. 4.

Departments of Surveyor-General and Commissioner of Crown Lands consolidated.

5. The Department and office of the Surveyor General of this Province shall continue to be consolidated with the Department and office of the Commissioner of Crown Lands, under the superintendence and management of the last named officer. R. S. O. 1877, c. 23, s. 5.

6. All the powers and duties which, before the seventeenth day of March, 1845, were assigned to or vested in the Surveyor-General, shall be vested in the Commissioner of Crown Lands; and the said powers and duties shall be exercised and performed by him, or by any assistants or clerks in his Department or office or by any person whom he by an instrument in writing under his hand, authorizes to that effect, and under such name or designation of office as he may fix, as effectually as they might before the said day have been exercised or performed by the Surveyor-General. R. S. O. 1877, c. 23, s. 6.

Powers and duties of the Surveyor-General to be exercised and performed by the Commissioner of Crown Lands.

7. The Lieutenant-Governor may from time to time appoint officers and agents to carry out this Act and Orders in Council under it, which officers and agents shall be paid in such manner and at such rates as the Lieutenant-Governor in Council may direct. R. S. O. 1877, c. 23, s. 7.

Appointment of officers and agents.

8. The Lieutenant-Governor in Council shall require from the Commissioner of Crown Lands and from the Assistant Commissioner, and from every agent appointed under him, security for the due performance of his duty. R. S. O. 1877, c. 23, s. 8.

Commissioner, Assistant Commissioner and agents to give security.

9. No County or resident agent for the sale of Public Lands shall, within his division, directly or indirectly, unless under an Order of the Lieutenant-Governor in Council, purchase any land which he is appointed to sell, or become proprietor of or interested in any such land, during the time of his agency, and any such purchase or interest shall be void; and if an agent offends in the premises, he shall forfeit his office and the sum of \$400 for every offence, to be recovered in an action by any person who may sue for the same. R. S. O. 1877, c. 23, s. 9.

Purchase, etc., by agent of land, etc., in his agency, forbidden.

10. The Commissioner of Crown Lands shall annually lay before the Legislative Assembly, and within ten days after the meeting thereof, a report of the proceedings, transactions and affairs of the Department during the year then next preceding. R. S. O. 1877, c. 23, s. 10.

Commissioner to report annually to the Legislature.

11. The Lieutenant-Governor in Council may, from time to time, make such orders as are necessary to carry out the provisions of this Act according to their obvious intent, or to meet cases which may arise and for which no provision is made by this Act; and the orders shall be published in the *Ontario Gazette*, and in such newspapers as the Commissioner of Crown Lands may direct, and shall be laid before the Legislative Assembly within the first ten days of the session next after the date thereof; but no order shall be inconsistent with this Act, save that the powers herein given to the Commissioner of Crown Lands may be exercised by the Lieutenant-Governor in Council, and shall be subject to any Order in Council regulating or affecting the same from time to time. R. S. O. 1877, c. 23, s. 11.

Lieutenant-Governor in Council may make orders for carrying out this Act.

Proviso.

Determina-
tion of claim
arising under
repealed Acts
Orders in
Council, etc.

12. Any claim to land arising under any Act, or under any Order in Council, or other regulation of the Government in force before the 23rd day of April, 1860, shall be determined by the Commissioner of Crown Lands, subject to such arrangement and order in respect to improvements on particular lands as the Commissioner may think just; or the same may be satisfied by issuing, to the party entitled, land scrip, or a certificate entitling him to purchase land to such an amount as the Commissioner of Crown Lands may find just; but no claim for land arising from Militia, United Empire Loyalist, or Military Rights, shall be entertained unless the same was actually located or admitted, or proof in support thereof, sufficient in the opinion of the Commissioner of Crown Lands, furnished before the passing, on the 14th of June, 1853, of the Act 16th Victoria, chapter 159. R. S. O. 1877, c. 23, s. 12.

GRANTS, SALES AND LICENSES OF OCCUPATION AND ASSIGNMENT
THEREOF.

Lands may be
set apart for
certain public
purposes, and
free grants
thereof made
in trust.

13. The Lieutenant-Governor in Council may set apart and appropriate such of the Crown Lands as he may deem expedient for the sites of Wharves or Piers, Market Places, Gaols, Court Houses, Public Parks or Gardens, Town Halls, Hospitals, Places of Public Worship, Burying Grounds, Schools, and for purposes of Agricultural Exhibitions, and for other like public purposes, and for Model or Industrial Farms; and at any time before the issue of letters patent therefor, may revoke such appropriation as seems expedient; and may make free grants for the purposes aforesaid, and the trust and uses to which they are to be subject shall be expressed in the letters patent; but no grant shall be for more than ten acres in any one instance, and for any one of the purposes aforesaid, except for a Model or Industrial Farm, which shall not exceed one hundred acres. R. S. O. 1877, c. 23, s. 13.

Provisō.

Lieut.-Gov. to
fix price of
public land
per acre.

14. The Lieutenant-Governor in Council may, from time to time, fix the price per acre of the public lands, and the terms and conditions of sale and of settlement and payment. R. S. O. 1877, c. 23, s. 14.

Licenses of oc-
cupation to be
issued to in-
tending set-
tlers—their
effect.

15. The Commissioner of Crown Lands may issue, under his hand and seal, to any person who has purchased or may purchase, or is permitted to occupy, or has been entrusted with the care or protection of any Public Land, or who has received or been located on any Public Land as a free grant, an instrument in the form of a license of occupation; and such person or the assignee, by an instrument registered under this or any former Act, providing for registration in such cases, may take possession of and occupy the land therein comprised, subject to the conditions of the license, and may thereunder, unless the same has been revoked or cancelled, maintain actions against any wrongdoer or trespasser, as effectually as he

could do under a patent from the Crown;—and the license of occupation shall be *prima facie* evidence for the purpose of possession by such person, or the assignee under an instrument registered as aforesaid, in such action, but the same shall have no force against a license to cut timber existing at the time of granting thereof. R. S. O. 1877, c. 23, s. 15.

16. Every license of occupation granted prior to the 23rd day of April, 1860, and every certificate of sale or receipt for money received on the sale of Public Lands, and every location ticket theretofore granted or made by the Commissioner of Crown Lands or any agent of his, so long as the sale or grant to which the license of occupation, receipt, certificate, or location ticket relates is in force, and not rescinded, shall have the same force, and shall enure to the benefit of the party to whom the same was granted, or to the assignee, by instrument registered as aforesaid, in the same manner and to the same extent as the instrument in the form of a license of occupation mentioned in the next preceding section. R. S. O. 1877, c. 23, s. 16.

Licenses of occupation, certificates, receipts and location tickets issued before 23rd April, 1860,—their effect.

17.—(1) The Commissioner of Crown Lands shall keep a book for registering (at the option of the parties interested) the particulars of any assignment made as well by the original nominee, purchaser, locatee or lessee of Public Lands, or his heir or legal representative, as by any subsequent assignee of any such Public Lands or the heir or legal representative of such assignee; and upon the assignment being produced to the Commissioner, with an affidavit of due execution thereof, and of the time and place of such execution, and the names, residences and occupations of every witness thereto, the Commissioner shall cause the material parts of every such assignment to be registered in the book of registry, and shall cause to be endorsed on every such assignment a certificate of registration, to be signed by himself or by the Assistant Commissioner, or by any officer of the Department by him authorized to sign such certificates.

Commissioner to keep a register of assignments of claims to lands; on what proof entries shall be made therein, their effect, etc.

(2) Every assignment so registered shall be valid against one previously executed, and unregistered or subsequently registered; but all assignments to be registered must be unconditional, and all the conditions of the sale, grant or location must have been complied with, or dispensed with by the Commissioner of Crown Lands, before registration is made.

First registered assignment to be valid.

Proviso.

(3) If a subscribing witness to an assignment is deceased, or has left the Province, the Commissioner may register the assignment upon the production of an affidavit proving the death or absence of the witness and his hand-writing, or the handwriting of the party making the assignment. R. S. O. 1877, c. 23, s. 17.

On what proof assignment may be registered when witness dead or absent.

Deeds executed by the proper officers for sales of lands for taxes may be acted upon by the Commissioner of Crown Lands

18. Where the proper officer or officers having by law the power or authority to make or execute deeds on sales of lands for taxes have heretofore made or executed, or hereafter make or execute any deed purporting to grant, sell or convey any land or portion of land, the fee of which is in Her Majesty, or purporting to grant, sell or convey the interest therein of a locatee or purchaser from the Crown, and the deed recites, or purports to be based upon a sale for taxes of the land or interest, the Commissioner of Crown Lands may act upon and treat the deed as a valid transfer of all the right and interest of the locatee or purchaser from the Crown, and of every person claiming under him, in or to such land or portion of land to the grantee named in the deed, and may cause a patent for the land to be issued to the grantee on completion of the original conditions of location for sale, unless the deed is questioned before a Court of competent jurisdiction by some person interested in the land within two years from the time of sale, and unless notice of the deed being so questioned, within the time aforesaid, is given to the Commissioner of Crown Lands. R. S. O. 1877, c. 23, s. 18.

Sect. 18 not to apply to certain deeds for lands sold for taxes.

19. The preceding section shall not apply to a deed based or purporting to be based upon a sale for taxes made prior to the 1st day of January, in the year 1868. R. S. O. 1877, c. 23, s. 19.

Sects. 18 and 19 not to affect the power of the Commissioner to cancel sales, etc.

20. The preceding two sections shall not interfere with the authority of the Commissioner of Crown Lands under this Act to cancel the original sale, grant or location of any such land. R. S. O. 1877, c. 23, s. 20.

Commissioner may receive proof in support of claim for patent by heir, etc., of deceased nominee.

21. On an application for a patent by the heir, assignee or devisee of the original nominee of the Crown, the Commissioner of Crown Lands may receive proof in such manner as he may direct and require in support of any claim for a patent when the original nominee, or any one claiming under him, is dead, and upon being satisfied that the claim has been equitably and justly established, may allow the same and cause a patent to issue accordingly: But nothing in this section shall limit the right of the party claiming a patent to make his application at any time to the Commissioners under *The Act respecting the Heir, Devisee and Assignee Commission*. R. S. O. 1877, c. 23, s. 21.

Power to apply to Heir and Devisee Commissioners under Rev. Stat. c. 27, reserved.

FORFEITURE OF CLAIMS.

Sale, etc. of land may be cancelled in case of fraud or error.

22. If the Commissioner of Crown Lands is satisfied that a purchaser, grantee, locatee or lessee of Public Land, or any assignee claiming under or through him, has been guilty of fraud or imposition, or has violated any of the conditions of sale, grant, location or lease, or of the license of occupation, or if such sale, grant, location or lease or license of

occupation has been or is made or issued in error or mistake, he may cancel such sale, grant, location, lease or license, and resume the land therein mentioned, and dispose of it as if no sale, grant, location or lease thereof had ever been made. R. S. O. 1877, c. 23, s. 22.

23. Where a purchaser, lessee or other person refuses or neglects to deliver up possession of any land after revocation or cancellation of the sale, grant, location, lease or license, of occupation thereof as aforesaid, or when a person is wrongfully in possession of public land and refuses to vacate or abandon possession of the same, the Commissioner of Crown Lands may apply to the County Judge of the County in which the land lies for an order for possession, and the Judge, upon proof to his satisfaction that the right or title of the party to hold the land has been revoked or cancelled as aforesaid, or that he is wrongfully in possession of Public Land, shall grant an order upon the purchaser, lessee or person in possession, to deliver up the same to the Commissioner of Crown Lands, or person by him authorized to receive the same; and the order shall have the same force as a writ of possession; and the Sheriff, or Bailiff or person to whom the same may be entrusted for execution by the Commissioner of Crown Lands, shall execute the same in like manner as he would execute a writ in an action for the recovery of land. R. S. O. 1877, c. 23, s. 23.

Mode of obtaining possession, if settler refuses to deliver up land on revocation of license, etc

RENT IN ARREAR.

24. Where rent payable to the Crown on a lease of Public Lands is in arrear, the Commissioner of Crown Lands, or an agent or officer appointed under this Act and authorized by the Commissioner of Crown Lands to act in such cases, may issue a warrant, directed to any person or persons by him named therein, in the nature of a distress warrant, as in ordinary cases of landlord and tenant; and the same proceedings may be had thereon for the collection of such arrears as in the last mentioned cases; or an action may be brought therefor in the name of the Commissioner of Crown Lands, but demand of rent shall not be necessary in any case. R. S. O. 1877, c. 23, s. 24.

Commissioner or other officer may issue distress warrant for rent in arrear;

Or action may be brought.

PATENTS ISSUED IN ERROR.

25. Where a patent has been issued to or in the name of the wrong party, through mistake in the Crown Lands Department, or contains any clerical error or misnomer, or wrong description of the land thereby intended to be granted, the Commissioner of Crown Lands (there being no adverse claim) may direct the defective patent to be cancelled and a correct one to be issued in its stead, which corrected patent shall relate back to the date of the one so cancelled, and have the

Erroneous patents may be cancelled.

same effect as if issued at the date of such cancelled patent. R. S. O. 1877, c. 23, s. 25.

Compensation
in case of
double or in-
consistent
grants.

26. In all cases in which grants or letters patent have issued for the same land inconsistent with each other through error, and in all cases of sales or appropriations of the same land inconsistent with each other, the Commissioner of Crown Lands may, in cases of sale, cause a repayment of the purchase money, with interest, or when the land has passed from the original purchaser or has been improved before a discovery of the error, or, when the original grant or appropriation was a free grant, he may in substitution assign land or grant a certificate entitling the party to purchase Crown Lands, of such value and to such extent as to him, the Commissioner of Crown Lands, seems just and equitable under the circumstances; but no claim shall be entertained unless it is preferred within five years from the discovery of the error. R. S. O. 1877, c. 23, s. 26.

Proviso.

Compensation
for deficiency
of land by
reason of false
survey or error
in departmental
books or
plans.

27. Where by reason of false survey or error in the books or plans in the Crown Lands Department, any grant, sale or appropriation of land is found to be deficient, or any parcel of land contains less than the quantity of land mentioned in the patent therefor, the Commissioner of Crown Lands may order the purchase money of so much land as is deficient, with the interest thereon from the time of the application therefor, or if the land has passed from the original purchaser, then the purchase money which the claimant (provided he was ignorant of a deficiency at the time of his purchase) has paid for so much of the land as is deficient, with interest thereon from the time of the application therefor, to be paid to him in land or in money, as he, the Commissioner of Crown Lands, may direct; or in case of a free grant, he may order a grant of other land equal in value to the land so intended as a free grant at the time the grant was made; but no claim shall be entertained unless application has been made within five years from the date of the patent, nor unless the deficiency is equal to one-tenth of the whole quantity described as being contained in the particular lot or parcel of land granted. R. S. O. 1877, c. 23, s. 27.

Proviso.

Compensation
under ss.
26 and 27 to be
personalty -
Except, in
certain cases.

28. Compensation awarded under the preceding two sections of this Act (except where land is specifically assigned therefor by the Commissioner of Crown Lands) and all claims therefor shall be treated as personal estate, and dealt with accordingly. R. S. O. 1877, c. 23, s. 28.

Registration
of judgments.

29. In case of a patent for land being repealed or avoided by the High Court, the judgment shall be registered in the registry office of the registry division in which the land lies. R. S. O. 1877, c. 23, s. 29 (1).

REDUCTION IN PRICE OF CERTAIN LANDS SOLD BEFORE 1ST JULY, 1867.

30. The Lieutenant-Governor in Council shall have authority to reduce the price of any Crown Lands, Clergy Land, Common or Grammar School Land sold by the Crown previously to the 1st day of July, in the year 1867, where it appears that such land has been sold at a price beyond its fair value, and that the price remains unpaid. Reduction in the price of lands sold by the Crown beyond their fair value. R. S. O. 1877, c. 23, s. 30.

31. The Lieutenant-Governor in Council shall also have authority to make such abatement as may appear equitable and just, of the arrears of interest upon the unpaid instalments of the purchase money of any Crown Land, Clergy Land, Common or Grammar School Land sold by the Crown previously to the 1st day of July aforesaid; but the reductions and abatements shall be made only in respect of, and in proportion to, the share or interest of this Province in the lands, and the price thereof, and shall not in anywise extend to or affect the share or interest of the Province of Quebec in the lands or the price thereof. Abatement of interest. R. S. O. 1877, c. 23, s. 31.

32. Before the reduction or abatement as aforesaid is made, the land in respect of which the reduction or abatement is proposed shall be examined and valued by one or more inspector or inspectors, appointed for that purpose by the Lieutenant-Governor in Council, or by the Commissioner of Crown Lands. Inspection of lands. R. S. O. 1877, c. 23, s. 32.

33. The reduction and abatement shall be confined to cases in which the purchaser from the Crown or person claiming under him is in occupation of the land, and is an actual settler thereon, or on land adjacent thereto. Persons entitled to a reduction. R. S. O. 1877, c. 23, s. 33.

34. The Lieutenant-Governor may, by Order in Council, confer upon the Commissioner of Crown Lands authority to make the reduction or abatement as aforesaid, subject to the provisions of this Act, and subject also to such other provisions, not inconsistent with this Act, as may be embodied in an Order in Council. Authority of Commissioner of Crown Lands to make reduction. R. S. O. 1877, c. 23, s. 34.

ANNUAL LISTS OF LANDS GRANTED, ETC., BY THE CROWN.

35. Public lands for which no patents have issued, but which have been sold, leased, located as free grants or appropriated to any person, or for which licenses of occupation have been granted, shall be liable to assessment in the municipalities in which they respectively lie, from the date of the sale, lease, location, appropriation or license; and a purchaser at the sale of such lands for taxes shall have in the lands so sold the same rights only as the person entitled to claim under the Crown at the time of such sale. Assessment of unpatented lands. R. S. O. 1877, c. 23, s. 35, *part.*

Annual lists of lands granted, etc., to be furnished by Commissioner of Crown Lands to County Treasurers.

36. The Commissioner of Crown Lands shall in the month of February in every year transmit to the treasurer of every county a list of all the land within the county patented, located as free grants, sold or agreed to be sold by the Crown, or leased, or appropriated to any person, or in respect of which a license of occupation issued during the preceding year, and the Commissioner of Crown Lands shall in like manner apprise every treasurer of the cancellation of any license of occupation, or of any sale, lease, license, location, or appropriation from which time until again sold, leased, located, appropriated or placed under license, the land affected shall cease to be liable to taxes. R. S. O. 1877, c. 23, ss. 35 (*part*), 36 ; 48 V. c. 8.

Provincial Secretary to furnish Registrar with statement of Crown grants once every three months.

Maps to be furnished by Commissioner of Crown Lands.

37. The Provincial Secretary shall, once in every three months, furnish to the Registrar of every Registry Division, a statement containing a list of the names of all persons to whom patents have issued from the Crown for grants of land within the registry division since the former statements, and of all persons whose patents have been cancelled since the former statements, and with such general or particular descriptions as the case may require ; and the Commissioner of Crown Lands shall furnish copies of all plans or maps of towns and townships within the registry division which have not been already furnished, and in cases where no proper survey of any Township has been made he may cause a proper survey and plan thereof to be made and furnished. R. S. O. 1877, c. 23, s. 37.

OFFENCES AND PENALTIES.

Employees of the Crown Lands Department not to traffic in public lands or take fees.

Penalty.

38. No person holding an office created by or continued under this Act (save in the case provided for in section 9.) or employed in the Department, shall, while holding such office or employment, directly or indirectly purchase any right, title or interest in any public land, or any land scrip, nor deal nor traffic in the same, either in his own right, or by the interposition of any other person, or in the name of any other person in trust for himself, nor shall take or receive any fee or emolument for negotiating or transacting any business connected with the duties of his office or employment ; and any person offending in the premises shall forfeit his office or employment, and be liable to a penalty of \$400, to be recovered by action by any person suing for the same. R. S. O. 1877, c. 23. s. 38.

Penalty on agent knowingly giving false information, etc.

39. If an agent, appointed or continued in office under this Act, knowingly and falsely informs, or causes to be informed, any person applying to him to locate or purchase any land within his division and agency, that the same has already been located, assigned or purchased, or refuses to permit the per-

son so applying to purchase the same, or (where entitled), to locate the same, according to existing regulations, such agent shall be liable therefor to the person so applying, in the sum of \$5 for each acre of land which the person so applying offered to locate or purchase, to be recovered by action in any Court of Record having jurisdiction to the amount. R. S. O. 1877, c. 23, s. 39.

MISCELLANEOUS.

40. Where by law or by deed, lease or agreement relating to any lands herein referred to, any notice is required to be given, or any act to be done, by or on behalf of the Crown, such notice may be given and act done by or by the authority of the Commissioner of Crown Lands. How notices required to be given in respect of Crown Lands. R. S. O. 1877, c. 23, s. 40.

41. The Commissioner of Crown Lands shall cause lists of the Public Lands for sale in the several Townships in Ontario to be made out from time to time, and advertised and published as he deems most advisable for ensuring general information. Lists of public lands for sale to be published. R. S. O. 1877, c. 23, s. 41.

42. Affidavits required under this Act, or intended to be used in reference to any claim, business or transaction in the Crown Lands Department, may be taken before the Judge or Clerk of any County Court, or any Justice of the Peace, Notary Public, or any Commissioner for taking affidavits in the High Court, or the Commissioner of Crown Lands, or any agent of the Commissioner of Crown Lands, or the Assistant Commissioner of Crown Lands, or any Surveyor duly licensed and sworn, appointed by the Commissioner of Crown Lands to inquire into or take evidence or report in any matter submitted or pending before such Commissioner; or if made out of the Province, before the Mayor or Chief Magistrate of, or the British Consul in, any City, Town or other Municipality. Before whom affidavits under this Act may be made. R. S. O. 1877, c. 23, s. 42; 48 V. c. 16, s. 1.

43. The Commissioner or the Assistant Commissioner of Crown Lands may authorize, by a commission under the hand and seal of the Commissioner or Assistant Commissioner, any person who is employed in the service of the Crown Lands Department, to take affidavits and affirmations in any part of Ontario, in respect of any matter or inquiry having reference to any business of the Department, or of any matter or inquiry in respect of which the Department is interested, or which affects the revenue of Ontario. Commissioner of Crown Lands may issue commissions of inquiry. R. S. O. 1877, c. 23, s. 43.

44. The authority granted by virtue of any commission under the preceding section, may be limited to a certain period of time, or may be expressed to be while the commissioner receiving authority under the commission remains in the Duration of such commissions.

service of the department; but the same shall in any event determine upon the commissioner ceasing to be employed in such service. R. S. O. 1877, c. 23, s. 44.

Attested copies of departmental records, etc., to be evidence

45. Copies of records, documents, books or papers belonging to or deposited in the Department, attested under the signature of the Commissioner or of the Assistant Commissioner, shall be competent evidence in all cases in which the original records, documents, books or papers, could be evidence. R. S. O. 1877, c. 23, s. 45.

Patent or title of patentee or of any subsequent purchaser not affected by non-observance of certain conditions.

46. With a view to remove doubts, and to quiet the titles to certain lands granted before the 23rd of April, 1860, it is enacted, that the non-observance and non-fulfilment of the condition imposed in and by certain patents issued for Public Lands, of taking the oaths which may have been before the said date prescribed in case of any subsequent sale, conveyance, enfeoffment or exchange, by the patentee, and of recording such oaths, within twelve months after having taken possession, in the office of the Provincial Secretary, or of performing certain settlement duties, shall not affect in any way the patent or title of any patentee, or of any subsequent purchaser or proprietor. R. S. O. 1877, c. 23, s. 46.

Sales and appropriations of water lots declared to be legal.

47. It has been heretofore, and it shall be hereafter lawful for the Lieutenant-Governor in Council to authorize sales or appropriations of land covered with water in the harbours, rivers and other navigable waters in Ontario, under such conditions as it has been, or it may be, deemed requisite to impose, but not so as to interfere with the use of any harbour as a harbour, or with the navigation of any harbour, river or other navigable water. R. S. O. 1877, c. 23, s. 47.

PINE TREE REGULATIONS.

ORDER AND REGULATION.

Made under "The Public Lands Act 1860, by Order of His Excellency the Lieutenant-Governor in Council, dated 27th May, 1869:—

All Pine Trees growing or being upon any Public Land hereafter to be sold, and which at the time of such sale, or previously, was included in any Timber License, shall be considered as reserved from such sale; and such land shall be subject to any Timber License, covering or including such land, in force at the time of such sale, or granted within three years from the date of such sale; and such trees may be cut and removed from such land, under the authority of any such Timber License, while lawfully in force; but the purchaser at such sale, or those claiming under him or her, may cut and use such trees as may be necessary for the purpose of building, fencing and fuel on the land so purchased, and may also cut and dispose of all trees required to be removed in actually clearing said land for cultivation, but no pine trees, except for the necessary build-

ing, fencing and fuel as aforesaid, shall be cut beyond the limit of such actual clearing before the issuing of the Patent for such land, and all pine trees so cut and disposed of (except for the necessary building, fencing and fuel as aforesaid), shall be subject to the payment of the same dues as are at the time payable by the holders of licenses to cut timber or saw-logs.

All trees remaining on the land at the time the Patent issues shall pass to the Patentee.

Provided, however, that this order shall not apply to any land to be sold as mining land, under "The General Mining Act of 1869," nor to land to be sold to any Free Grant locatee, under the Regulation or Order in Council bearing date this day.

ORDER IN COUNCIL.

Passed 3rd April, 1880, respecting the Reservation of Pine and Cedar.

Notice is hereby given that on the third instant, an Order in Council was passed authorizing the Commissioner of Crown Lands, in future sales of lands under the "Public Lands Act," Chapter twenty-four of the Revised Statutes of Ontario, to reserve from any such sale with respect to which he may consider it expedient either the pine or cedar trees, or both, on the lands sold, for five years from the date of sale, and that such lands as may be sold with the reservation mentioned shall be held to be subject for the said period of five years from the date of sale to any timber license in force over them at the time of sale, and to any renewal of said license within the term specified in which authority is given to cut such trees on such lands, and to any license granted or renewed within the said period of five years to cut the same on lands so sold; and such trees may be removed from such lands under the authority of such timber license while lawfully in force; but the purchasers of such lands, or those claiming under them, may cut and use such trees at all times as may be necessary for the purpose of building, fencing and fuel on the lands so purchased, and may also cut and dispose of all trees required to be removed in actual clearing said land for cultivation, but no trees reserved, except for the necessary building, fencing and fuel as aforesaid, shall be cut beyond the limit of such actual clearing before the issue of a patent for such land; and all reserved trees so cut and disposed of shall be subject to the same dues as are at the time payable by the holders of licenses to cut timber.

The Order further provides that the patents for lands hereafter sold under the "Public Lands Act" with respect to which the Commissioner of Crown Lands has imposed the condition of reservation of either the pine or cedar trees, or both, shall not be issued until the expiration of the term hereinbefore mentioned, nor until the required settlement duties have been fully performed; and in case the settlement duties have not been performed on such land at the expiration of five years, the said lands shall be further subject to any timber license in which they may be included, granted or renewed prior to the completion of settlement duties upon the said lands, and prior to the evidence of completion of such settlement duties having been filed in the Department of Crown Lands.

FORMS OF AFFIDAVITS TO BE USED IN APPLICATIONS FOR CROWN LANDS.

No. 1.—AFFIDAVIT TO BE TAKEN BY A MALE OR FEMALE HEAD OF A FAMILY WHO
DESIRES TO PURCHASE LAND, SUBJECT TO SETTLEMENT IN NORTH
NIPISSING AND ALGOMA DISTRICTS.

Canada, I, of being the
Province of Ontario, head of a family, and desirous of purchasing lot number
District of in the concession of the township of make
To Wit : oath and say :—

1. That I am the head of a family.
2. That the said land is wholly unoccupied and unimproved, and I believe the same to be suited for settlement and cultivation.
3. That I have examined the said land, and that it is not, to my knowledge, valuable for mines, minerals or pine timber, and that I desire to purchase it for my own use and benefit, for the purpose of actual settlement and cultivation of the land, and not either directly or indirectly for the use or benefit of any other person, nor for the purpose of obtaining possessing or disposing of any mines, minerals or pine timber thereon.

Sworn before me, at
this day of 18 . }

No. 2.—AFFIDAVIT TO BE TAKEN BY A MALE PERSON ABOVE THE AGE OF EIGHTEEN
YEARS, AND NOT THE HEAD OF A FAMILY, WHO DESIRES TO PUR-
CHASE LAND AND BECOME A SETTLER, IN SAME DISTRICTS.

Canada, I, of make
Province of Ontario, oath and say :—
District of 1. That I am of the full age of eighteen years.
To Wit : 2. That I am desirous of purchasing lot number in
the concession of the township of in the district of

and that the said land is wholly unoccupied and unimproved, and I believe the same is suited for settlement and cultivation.

3. That I have examined the said land, and that it is not, to my knowledge, valuable for mines, minerals or pine timber, and that I desire to purchase it for my own use and benefit, for the purpose of actual settlement and cultivation of the land, and not either directly or indirectly for the use or benefit of any other person, nor for the purpose of obtaining possessing or disposing of any mines, minerals or pine timber thereon.

Sworn before me, at
this day of 18 . }

No. 3.—AFFIDAVIT IN SUPPORT OF APPLICATION FOR PATENT FOR LANDS SOLD
SUBJECT TO SETTLEMENT.

Ontario, We, of the township of in the
District of of and of the same place, yeomen, each for
To Wit : himself, make oath and say :—

1. That I know lot number in the concession of the town-
ship of
2. That there are acres cleared and had under cultivation and crop
on the said lot.
3. That the following buildings have been erected thereon, namely :—A
house fit for habitation x feet.
4. That said lot is occupied by and has been continuously
occupied by for years, and the improvements
made thereon were made by
5. That I do not know of any claim to or occupation of said lot adverse to
that of

Sworn before me, at
this day of 18 . }

Recommended for Patent this
18
Crown Land Agent.

CHAPTER 25.

An Act respecting Free Grants and Homesteads to Actual Settlers on Public Lands.

SHORT TITLE, s. 1.

FREE GRANTS LIMITED, s. 2.

FREE GRANTS TO ACTUAL SETTLERS, ss. 3-15.

Territory defined, s. 4.

To whom made, and amount of grant, ss. 5, 6.

Affidavit of locatee to obtain grant, s. 7.

When locatee entitled to patent, s. 8.

Settlement duties to be performed, s. 9.

Timber and minerals reserved, ss. 10, 11.

Payments to patentees of part of dues, s. 12.

Crown may grant timber licenses over Free Grant lands, ss. 13-15.

ALIENATION BY LOCATEE—

Not before patent issued, s. 16.

To be by deed of locatee and his wife jointly, s. 17.

Statements to be made in patent, s. 18.

RIGHTS OF WIDOW OF LOCATEE, s. 19.

EXEMPTION OF LAND FROM LIABILITY FOR DEBTS OF LOCATEE, ss. 20, 21.

SETTLER'S HOMESTEAD FUND, s. 22.

REMISSION OF SUMS DUE BY FORMER SETTLERS IN CERTAIN FREE GRANT TOWNSHIPS, ss. 23-24.

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:—

1. This Act may be cited as "*The Free Grants and Homesteads Act*," and shall be taken and read as part of *The Public Lands Act*. R. S. O. 1877, c. 24, s. 1. Short title.
Rev. Stat.,
c. 24

2. Except as hereinafter and in sections 12 and 13 of *The Public Lands Act* provided, no free grant of Public Land shall be made, but patents may issue for all lands located as free grants before the 28th day of February, 1868, under section 13 of *The Public Lands Act* of 1860, as if this Act had not been passed. R. S. O. 1877, c. 24, s. 2. Free grants
limited.
Rev. Stat. c.
24.
23V. c. 2, s. 13

3. The Lieutenant-Governor in Council may appropriate any Public Lands considered suitable for settlement and cultivation, and not being mineral lands or pine timber lands, as free grants to actual settlers, under such regulations as shall from time to time be made by Order in Council not inconsistent with the provisions of this Act. R. S. O. 1877, c. 24, s. 3. Free grants
may be made
to actual set-
tlers.

4. Such grants or appropriations shall be confined to lands surveyed or hereafter to be surveyed, situate within the tract or territory composed of the Districts of Algoma, Thunder Bay, Free grants
to be confined
to lands with-
in certain
territory.

Rainy River and Nipissing, and of the lands lying between the Ottawa River and the Georgian Bay to the west of a line drawn from a point opposite the south-east angle of the Township of Palmerston, north-westerly along the western boundaries of the Townships of North Sherbrooke, Lavant, Blithfield, Admaston, Bromley, Stafford and Pembroke to the Ottawa River, and to the north of the rear or northerly boundaries of the Townships of Oso, Olden, Kennebec, Kaladar, Elzevir, Madoc, Marmora, Belmont, Dummer, Smith, Ennismore, Somerville, Laxton, Carden, Rama, and of the River Severn. R. S. O. 1877, c. 24, s. 4; 48 V. c. 20; 49 V. c., 19 s. 1.

Locatee defined.

5. The person to whom any land may be allotted or assigned under the regulations for a free grant thereof shall be considered as located for the said land within the meaning of this Act, and is hereinafter called the locatee thereof. R. S. O. 1877, c. 24, s. 5.

Who may be located, and for what quantity of land.

6. No person shall be located for any land under this Act or the regulations, unless he is of the age of eighteen years or upwards, nor shall any person be so located for a greater quantity than two hundred acres. R. S. O. 1877, c. 24, s. 6.

Affidavit of person desiring location.

7.—(1) Before a person is located for any land as aforesaid he shall make an affidavit, to be deposited with the agent authorized to make the location, stating that he has not been located for any land under this Act or under the regulations, and, that he is of the age of eighteen years or upwards, (and in the case of a female that she is the sole head of a family having children under eighteen years of age residing with her) and believes the land for which he applies, or desires to be located is suited for settlement and cultivation, and is not valuable chiefly for its mines, minerals or pine timber, and that the location is desired for his benefit, and for the purpose of actual settlement and cultivation of the land, and not either directly or indirectly for the use or benefit of any other person, nor for the purpose of obtaining, possessing, or disposing of any of the pine trees growing or being on the land, or any benefit or advantage therefrom, or any gold, silver, copper, lead, iron or other mines or minerals, or any quarry or bed of stone, marble or gypsum thereon. 43 V. c. 4, s. 1.

Second location may be obtained.

(2) Provided always, that any person who has obtained a patent under this Act may, on shewing by affidavit that he has *bona fide* and absolutely parted with the land so patented, obtain another location. 47 V. c. 7, s. 1.

Patent not to issue before expiration of five years.

8. No patent shall issue for land located under this Act or under the regulations until the expiration of five years from the date of the location, nor until the locatee or those claiming under him or some of them have performed the

following settlement duties, that is to say: have cleared and have under cultivation at least fifteen acres of the said land, (whereof at least two acres shall be cleared and cultivated annually during the five years next after the date of the location, to be computed from such date,) and have built a house thereon fit for habitation at least sixteen feet by twenty feet, and have actually and continuously resided upon and cultivated the said land for the term of five years next succeeding the date of the location, and from thence up to the issue of the patent, except that the locatee shall be allowed one month from the date of the location to enter upon and occupy the land, and that absence from the land for in all not more than six months during any one year (to be computed from the date of the location) shall not be held to be a cessation of residence, provided the land be cultivated as aforesaid, R. S. O. 1877, c. 24, s. 8.

Settlement duties required.

9. On failure in performance of the settlement duties aforesaid, the location shall be forfeited, and all rights of the locatee or of any one claiming under him in the land, shall cease. R. S. O. 1877, c. 24, s. 9.

Location to be forfeited if settlement duties not performed.

10. Pine trees growing or being upon land located or sold within the limits of the Free Grant territory after the 5th day of March, 1880, and gold, silver, copper, lead, iron or other mines or minerals shall be considered as reserved from the location, and shall be the property of Her Majesty, except that the locatee, or purchaser, or those claiming under them, may cut and use such pine trees as may be necessary for the purpose of building and fencing on the land so located, and may also cut and dispose of all trees required to be removed in the actual clearing of the land for cultivation, but no pine trees (except for the necessary building and fencing as aforesaid) shall be cut beyond the limit of such actual clearing; and pine trees cut in the process of clearing, and disposed of, shall be subject to the payment of the same dues as are at the time payable by the holders of licenses to cut timber or saw-logs. 43 V. c. 4, s. 2.

Reservation of timber and mines.

Amendment of 1890, Cap. 6.

5. Section 10 of *The Free Grants and Homesteads Act* is amended by adding thereto the following sub-section:—

Rev. Stat. c. 25, s. 10, amended.

(2) Where the land allotted to a locatee or purchaser under this Act, is composed of two or more lots, or parcels of lots, the said locatee or purchaser or those claiming under him may cut such pine trees as may be necessary for the purpose of building and fencing as hereinbefore provided, on any one or more of the said lots or parcels of lots so located or purchased, and may use the said pine trees on the same lot or on any of the other lots or parcels of lots held by him as a free grant or by purchase under this Act, whether located at the same time or otherwise.

Locatee of two or more lots may cut pine for building and fencing.

11. The patents for all lands located or sold as aforesaid shall contain a reservation of all pine trees standing or

Reservation in patents.

being on the lands, which pine trees shall continue to be the property of Her Majesty; and any person now or hereafter holding a license to cut timber or saw logs on such lands, may at all times during the continuance of the license enter upon the uncleared portion of such lands, and cut and remove such trees and make all necessary roads for that purpose, and for the purpose of hauling in supplies doing no unnecessary damage thereby, but the patentees or those claiming under them may cut and use such trees as may be necessary for the purpose of building and fencing on the lands so patented, and may also cut and dispose of all trees required to be removed in actually clearing the land for cultivation, but no pine trees (except for necessary building and fencing as aforesaid) shall be cut beyond the limit of the actual clearing; and all pine trees so cut and disposed of shall be subject to the payment of the same dues as are at the time payable by the holders of licenses to cut timber or sawlogs. 43 V. c. 4, s. 3.

Section 12 was repealed by Cap. 6, Ont. Stat., 1890, and the following substituted therefor:—

Payment by
Crown to
patentees of
part of dues.

12. From and after the 30th day of April, 1889, the patentee, his heirs or assigns, of land located or sold under this Act, after the 5th day of March, 1880, shall be entitled to be paid out of the Consolidated Revenue of the province, on all pine trees cut on such land subsequent to the 30th day of April next after the date of the patent, and upon which dues have been collected by the Crown the sum of thirty-three cents on each one thousand feet, board measure, of saw logs, and four dollars on each one thousand cubic feet of square or waney timber, and the Lieutenant-Governor in Council may make regulations for ascertaining and determining the persons from time to time to receive the payments and the sums to be paid.

Acts relating
to free grants
not to affect
powers of the
Commissioner
of Crown
Lands to grant
timber licenses
on lots located
in Free Grant
territory.

31 V. c. 8.

13. Nothing contained in this Act or in *The Free Grants and Homestead Act of 1868*, or in the Act passed in the thirty-seventh year of Her Majesty's reign, and chaptered 23, or in any other Act passed by the Legislature of this Province, or within its legislative authority, shall be held to have in any way restricted or to restrict the authority of the Commissioner of Crown Lands to grant licenses to cut timber on lots located or sold under *The Free Grants and Homestead Act of 1868*, or under this Act, and on the contrary it is hereby declared that the Commissioner, ever since the passing of *The Free Grants and Homestead Act of 1868*, had under chapter 23 of the Consolidated Statutes of Canada, intituled *An Act respecting the Sale and Management of Timber on Public Lands*, under chapter 26 of *The Revised Statutes of Ontario*, 1877, and now has under chapter 28 of these Revised Statutes, full authority to grant licenses to cut timber on lots located or sold under *The Free Grants and Homestead Act of 1868*, or under this Act. R. S. O. 1877, c. 24, s. 11.

14. Every license heretofore issued whether the same has expired or is still current, and every license which may be hereafter issued to cut timber within the limits of any territory appropriated as Free Grant Territory, shall be deemed to have been and to be good and valid in all respects whatsoever, for the period for which the same was or may be granted, notwithstanding the patent for lands included therein may in the meantime have been issued; and every license shall be taken to have conferred, and to confer upon the holder thereof, the right to cut timber on the lands included therein until its expiration, whether the lands were or are located or sold under the said Act, or were or are unlocated or unsold, subject however to the conditions, regulations and restrictions specially applicable to the said Free Grant Territory, or to the said lots so sold or located as may have been heretofore or may be hereafter made by the Lieutenant-Governor in Council in respect of the payment of timber dues or otherwise, and subject also to the exceptions or restrictions contained in the license; but no license shall confer the right to cut any other than pine timber upon lands which have been located or sold in the said territory prior to the date of the license unless the location or sale has been heretofore or is hereafter cancelled. R. S. O. 1877, c. 24, s. 12.

Licenses heretofore granted confirmed.

15. The next preceding two sections shall not apply to any case adjudicated upon by any Court of this Province, on the 2nd day of March, 1877 or to any case that was pending on the 28th day of December, 1876. R. S. O. 1877, c. 24, s. 13.

Act not to apply to cases adjudicated before 2nd March, 1877, or pending on 28th Dec., 1876.

16. Neither the locatee, nor any one claiming under him, shall have power to alienate (otherwise than by devise) or to mortgage or pledge any land located as aforesaid, or any right or interest therein before the issue of the patent. R. S. O. 1877, c. 24, s. 14.

Land not to be alienated, etc., before issue of patent.

17. No alienation (otherwise than by devise), and no mortgage or pledge of the land, or of any right or interest therein by the locatee after the issue of the patent, and within twenty years from the date of the location, and during the life-time of the wife of the locatee, shall be valid or of any effect, unless the same be by deed in which the wife of the locatee is one of the grantors with her husband, nor unless such deed is duly executed by her. R. S. O. 1877, c. 24, s. 15.

After issue of patent, alienation, etc., to be by deed of locatee and wife jointly.

18. Every patent to be issued for land located as aforesaid shall state in the body thereof the name of the original locatee of the land, and the date of the location, and that the patent is issued under the authority of this Act. R. S. O. 1877, c. 24, s. 16.

Patents to state date of location, etc.

19. On the death of the locatee, whether before or after the issue of the patent for land so located, all his then right and interest in and to the land shall descend to and

On death of locatee widow to have estate during her widowhood.

Widow may elect to have her dower.

become vested in his widow during her widowhood in lieu of dower, in case there be a widow surviving the locatee; but the widow may elect to have her dower in the land in lieu of the provision aforesaid. R. S. O. 1877, c. 24, s. 17.

Exemption from liability for debt before issue of patent.

20.—(1) No land located as aforesaid, nor any interest therein, shall in any event be or become liable to the satisfaction of any debt or liability contracted or incurred by the locatee, his widow, heirs or devisees, before the issuing of the patent for the land.

Exemption after issue of patent.

(2) After the issuing of the patent for any land, and while the land or any part thereof, or interest therein, is owned by the locatee or his widow, heirs or devisees, such land, part or interest, shall during the twenty years next after the date of the location be exempt from attachment, levy under execution, or sale for payment of debts, and shall not be or become liable to the satisfaction of any debt or liability contracted or incurred before or during that period, save and except a debt secured by a valid mortgage or pledge of the land made subsequently to the issuing of the patent. R. S. O. 1877, c. 24, s. 18.

Exemption not to extend to taxes.

21. Nothing in this Act shall be construed to exempt the land from levy or sale for rates or taxes heretofore or hereafter legally imposed. R. S. O. 1877, c. 24, s. 19.

Lands cleared, fenced, etc., out of the former Settlers' Homestead Fund under 34 V. c. 5.

31 V. c. 8.

22.—(1) Every parcel of land subject to the provisions of the Act, chapter 5 of the Acts passed in the 34th year of Her Majesty's Reign, intituled *An Act to encourage Settlement in the Free Grant Territory*, and the Act amending the same passed in the 37th year of Her Majesty's reign and chaptered 21, shall continue to be subject thereto, and to this Act, and to any regulations made or to be made by Order in Council under *The Free Grants and Homestead Act of 1868*, or under this Act, except so far as such regulations and provisions are varied by or are inconsistent with the said first-mentioned Act and the amendments thereto.

Application of s. 8, limited.

(2) So much of section 8 of this Act as relates to building a house shall not apply to such parcel after clearance, fencing and erection thereon under the said first mentioned Act and the amendments thereto.

The following Section was passed in the Session of 1890, Cap. 6 :—

Rev. Stat. c. 25, s. 22, subss. 3 and 4 repealed.

Remission of dues from settlers in Ryerson and Spence.

6. Sub-sections 3 and 4 of section 22 of *The Free Grants and Homesteads Act*, are hereby repealed and the patents for the lands in said sub-sections mentioned or referred to may issue notwithstanding any arrears of payments of the expenses of clearing, fencing and erection of buildings thereon; and all sums due Her Majesty in respect of such clearing, fencing and building by locatees in the townships of Ryerson and Spence, in the district of Parry Sound, amounting to \$7,304 principal, together with any interest thereon, are hereby remitted.

REMISSION OF SUMS DUE IN CERTAIN TOWNSHIPS.

23. The Lieutenant-Governor in Council may remit the sums due to the Crown in respect of their lands by *bona fide* settlers in all the Free Grant Townships who were in occupation of their lands on the second day of March, 1872, and place the settlers in the same position as those who settled in the Free Grant Townships under the Free Grant Regulations. R. S. O. 1877, c. 24, s. 21.

Lieutenant-Governor may remit sums due by settlers in Free Grant Townships.

24. The Lieutenant-Governor in Council may confer upon the Commissioner of Crown Lands authority to make the remissions in the next preceding section mentioned, subject to the provisions thereof and of any Order in Council not inconsistent therewith. R. S. O. 1877, c. 24, s. 22.

Commissioner of Crown Lands may be empowered to make remissions.

The following sections were added to The Free Grants and Homesteads Act in 1889, Cap. 7.

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:—

1. Where the wife of a locatee under *The Free Grants and Homesteads Act*, or *The Rainy River Free Grants and Homesteads Act*, is a lunatic or of unsound mind and confined as such in a lunatic asylum, or where the wife of any such locatee has been living apart from her husband for two years under such circumstances as by law disentitle her to alimony, the locatee may at any time after the issue of the patent apply to a Judge of the High Court, and if the Judge approves, he may by an order made in a summary way, upon such evidence as to the Judge seems meet, and either *ex parte* or upon notice (to be served personally unless the Judge otherwise directs) dispense with the concurrence of the wife for the purpose of conveying or mortgaging lands located under the said Acts.

Conveyance of lands by locatee without concurrence of wife. Rev. Stat. cc. 25, 26.

2. Where the wife of a locatee under the said Acts has not been heard of for seven years under such circumstances as raise a legal presumption of death, the locatee may apply to a Judge of the High Court, and the Judge may make an order *ex parte* in a summary way, upon such evidence as to the Judge seems meet, dispensing with the concurrence of the wife for the purpose of conveying or mortgaging lands located as aforesaid.

Presumption of death of wife.

3. The order may contain conditions or directions for the benefit of the children of the locatee, if the Judge sees fit, and, subject to such conditions and directions (if any) the

Right of wife barred.

order shall operate to bar the right, title and interest of the wife in and to the land located as aforesaid, as if she being alive and of sound mind had been one of the grantors with her husband, and had duly executed the deed.

Besides the amendments already noted in the body of the Act the following sections were added in 1890, Ont. Stat., Cap. 6.

Commissioner may dispense with residence and settlement duties in certain cases.

2. In case a person who has complied with all the settlement duties under the said Act and obtained a patent for only one lot, is entitled to and desires to obtain another 100 acres to make up his full quantity, or having obtained his full quantity as a free grant has purchased an additional 100 acres under the Orders and Regulations under the said Act, and such additional location or purchase is adjacent to his patented lot, the Commissioner of Crown Lands upon being satisfied that such lot or lots are not chiefly valuable for their pine timber, and are suited only or principally for grazing purposes or as a fuel reserve, may dispense with residence and settlement duties upon them provided there are 30 acres cleared upon the patented lot, and may issue the patent at the expiration of the time required by the said Act.

Commissioner may dispense with clearing and residence in certain cases.

3. In case a person is *bona fide* the owner and occupant of land in a free grant district acquired otherwise than as a free grant under the said Act and is entitled and desires to obtain a free grant location and such location is adjacent to the land which he owns and occupies, the Commissioner of Crown Lands upon being satisfied by inspection or evidence that the lands are not chiefly valuable for their pine timber, and are suited only or principally for grazing purposes or as a fuel reserve, and that there are 30 acres cleared upon the lands which he owns and resides upon, may dispense with clearing and residence upon such free grant location and issue the patent at the expiration of the time required by the said Act.

Where occupant for six years not regularly located through inadvertence patent may issue before five years.

4. In case a person entitled to obtain a location under the provisions of the said *Free Grants and Homesteads Act* has, without objection by the Crown, for a period of six or more years occupied or made the required improvements upon one or more lots (not exceeding the quantity which may be granted under the said Act) of land prior to the said land being brought under the operation of the said Act, or if the land be open for location, in case he has so occupied but has not, either through inadvertence or oversight, been regularly located, the Commissioner of Crown Lands, subject to such regulations as may be provided in that behalf, may after location as by said Act is provided, issue the patent upon proof of the performance of the required settlement duties and without waiting for the expiration of five years from

the date of location. But this section shall not apply where it appears to the Commissioner that the lot has been selected chiefly on account of the pine timber thereon.

7. All sums due to the Crown for seed grain supplied to the settlers in the free grant territory or any part thereof, amounting to \$5,306, together with any interest thereon, are hereby remitted.

8. This Act shall be read with and as part of *The Free Grants and Homesteads Act*.

CHAPTER 26.

An Act respecting Free Grants and Homesteads to Actual Setters on Public Lands in the District of Rainy River.

WHEREAS under instructions from the Department Preamble.
of the Interior of Canada, certain townships have been surveyed in the Rainy River District, the lots immediately upon the bank of Rainy River having a width of ten chains fronting the river and a varying depth, and the remaining lands so surveyed being subdivided into sections of one mile square, and quarter sections of one hundred and sixty acres, with road allowances around each section; and whereas a number of settlers have gone into occupation of the lands so surveyed, and it is expedient to adopt said surveys and otherwise provide for the settlement of the lands in question;

Therefore Her Majesty, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:—

1. This Act may be cited as "*The Rainy River Free Grants and Homesteads Act*." 49 V. c. 7, s. 1. Short title.

2. The said surveys are hereby adopted and legalized, and the Department of Crown Lands is authorized to continue such Former surveys adopted.
system of survey within the District of Rainy River, so far as may be deemed expedient. 49 V. c. 7, s. 2.

3. The Lieutenant-Governor in Council may appropriate any lands in the Rainy River District considered suitable for Appropriation of lands for settlement.
settlement and cultivation, and not being mineral lands or pine timber lands, as free grants to actual settlers, under such regulations as shall from time to time be made by Order in Council not inconsistent with the provisions of this Act. 49 V. c. 7, s. 3.

Application of
R. S. O. c. 25.
to this Act.

4. *The Free Grants and Homesteads Act*, saving and excepting as is hereinafter provided, and so far as the same is not inconsistent with the provisions of this Act, shall apply to lands opened for settlement under this Act.

Free grants to
heads of
families.

1. The male, or sole female, head of a family with children under eighteen years of age residing with him, or her, may be located for a free grant to the extent of one hundred and sixty acres, or a quarter section.

Free grants to
males 18 years
of age.

2. A male of the age of eighteen years, without children, may be located for a free grant to the extent of one hundred and twenty acres, or a half quarter section, together with an adjoining quarter quarter section.

Purchase of
locations for
children.

3. In addition to location every head of a family having children under eighteen years of age residing with him, or her, may purchase at the time of location an adjoining half quarter section, or eighty acres, at \$1 per acre, payable one-fourth cash and the balance in three equal annual instalments with interest.

Purchase of
locations by
males 18 years
of age.

4. A male of the age of eighteen years, without children, entitled to locate, may purchase at the time of location an adjoining half quarter section, or eighty acres, at \$1 per acre, payable one-fourth cash, and the balance in three equal annual instalments with interest.

Issue of
patents.

5. Patents for lands located and purchased under this Act may issue at the expiration of three years from the date of location and purchase.

Sale to person
who has made
improvements.

6. Where a person has, previous to the passing of this Act, made substantial improvements on two or more adjoining lots, and the lots contain more land than the person is entitled under this Act to locate and purchase, the Commissioner of Crown Lands may sell to such person such additional quantity of land at \$1 per acre as may, under the circumstances, seem just and equitable.

Issue of
patents to
persons having
made improvements.

7. In case a person has occupied and made the required improvements upon one or more lots of land before the passing of this Act, the Commissioner of Crown Lands may, after location and purchase as hereinbefore provided, issue the patent therefor without waiting for the expiration of three years.

Reservation of
pine trees,
mines and
minerals.

8. Pine trees growing or being upon any lands located or purchased under this Act, and gold, silver, copper, lead, iron or other mines, or minerals, shall be considered as reserved from the location or purchase, and shall be the property of Her Majesty, except that the locatee, or those claiming under him, may cut and use such trees as may be necessary for the purpose of building, fencing and fuel, on the land so located or purchased, and may also cut and dispose of all trees required to be removed, in actually clearing the land for cultivation, but no pine trees (except for the necessary building, fencing, and fuel as aforesaid) shall be cut beyond the limit of the

actual clearing before the issuing of the patent; and pine trees so cut and disposed of (except for the necessary building, fencing and fuel as aforesaid) shall be subject to the payment of the same dues as are at the time payable by the holders of licenses to cut timber or saw logs.

9. Trees remaining on the land at the time the patent issues shall pass to the patentee. 49 V. c. 7, s. 4. Trees to pass to patentee.

5. This Act shall not go into force until a day to be named by the Lieutenant-Governor by his proclamation. 49 V. c. 7, s. 5. Commence-ment of Act.

ORDERS AND REGULATIONS

Made under "The Free Grants and Homestead Act of 1868." and "The Public Lands Act of 1860," by Order of His Excellency the Lieutenant-Governor in Council, dated 27th May, 1869:—

1. The quantity of land to be located to any person as a Free Grant, under "The Free Grants and Homestead Act of 1868," subsequently to the 23rd day of January, 1869, shall be 100 acres; but in case it shall be made to appear to the satisfaction of the Commissioner of Crown Lands, that any person located, or to be located as aforesaid, has not, by reason of rock, lakes or swamp, 100 acres that can be made available for farming purposes, the quantity located to such person may be increased in the discretion of the Commissioner of Crown Lands, to any number of acres, not exceeding in the whole 200 acres, so as to make 100 acres of such farming land; and the male head of a family located, or to be located, under said Act, since the said 23rd day of January, 1869, having children under eighteen years of age residing with him, may be located for, in all, 200 acres.

2. Any locatee under said last mentioned Act, being the male head of a family as aforesaid, shall be allowed to purchase an additional 100 acres at fifty cents per acre, cash, at the time of such location, subject to the same reservations and conditions, and the performance of the same settlement duties as are provided in respect of Free Grant locations by the 9th and 10th sections of the said Act, except that actual residence and building on the land purchased will not be required.

3. The right is reserved to the Crown to construct on any land located under said Act, or sold as hereinbefore provided, any colonization road, or any road in lieu of, or partly deviating from any Government allowance for road; also the right to take from such land any wood, gravel, or other materials required for the construction or improvement of any such road, without making any compensation for the land or materials so taken, or for any injury occasioned by the construction of such road; and such rights may be exercised by the Commissioner of Crown Lands, or any one authorized by him for that purpose.

4. Holders of timber licenses, their servants and agents, are to have the right to haul their timber or logs over the uncleared portion of any land located as a Free Grant, or purchased as before provided, and to make such roads thereon as may be necessary for that purpose, doing no unnecessary damage, and to use all slides, portages, roads or other works previously constructed or existing on any land so located or sold, and the right of access to and free use of all streams and lakes theretofore used, or that may be necessary for the passage of timber or logs; and all land necessary for such works is reserved.

5. All pine trees growing or being upon any land hereafter located as a Free Grant, under the said Act, or sold under the preceding regulations, shall be subject to any timber license in force at the time of such location or sale, or granted within five years subsequently thereto, and may, at any time before the issue of the patent for such land, be cut and removed under the authority of any such timber license while lawfully in force.

ORDERS AND REGULATIONS

Made by His Honour the Lieutenant-Governor in Council, under "The Free Grants and Homestead Act of 1868," on the 23rd day of July, 1875.

1. In townships now appropriated, or hereafter to be appropriated, under "The Free Grants and Homestead Act of 1868," where the lands have been subdivided into quarter sections or lots, of which the areas average 160 and 320 acres respectively, the quantity of land to be located as a Free Grant to any person, whether the head of a family having children under eighteen years of age, residing with him or otherwise, shall be 160 acres, and be composed of a quarter section, or a half lot, as the case may be, and should any quarter section or any half of a lot so divided contain less than the said quantity of 160 acres, the location shall be limited to such quarter section or half lot, and should they exceed the said quantity of 160 acres, the full quarter section or half lot may be located upon payment by any person who is not the head of a family having children under eighteen years of age residing with him, for the quantity in excess of 160 acres, at the rate of fifty cents per acre.

2. Any locatee in said townships shall be allowed to purchase an additional 160 acres, at the rate of fifty cents per acre, cash, at the time of such location, subject to the same reservations and conditions, and the performance of the same settlement duties as are provided in respect of Free Grant locations, by the 9th and 10th sections of the said Act, except that actual residence and building on the land purchased will not be required.

FORMS OF AFFIDAVITS USED IN APPLICATIONS FOR FREE GRANTS.

No. 4.—AFFIDAVIT FROM A SINGLE MAN FOR 100 ACRES..

Set out the name, I, of the in the make
last place of resi- oath and say:
dence, and occu-
pation in full.

1. That I have not heretofore been located for any land under the "Free Grants and Homesteads Act," (except); nor have I obtained a Patent for any land as a Free Grant or any benefit under that Section of the said Act which provides for the remission of arrears due to the Crown by settlers who purchased in Free Grant Townships (except for lot number but that I have absolutely and in good faith parted with the said land so patented to me, and I am entitled to and desire to obtain another location).

2. That I am of the age of years.

3. That I desire to be located for lot number in the concession of the township of

4. That I believe the said land is suited for settlement and cultivation and is not valuable chiefly for its mines, minerals or pine timber; and that such location is desired for my benefit, and for the purpose of actual settlement and cultivation of such land, and not either directly or indirectly for the use or benefit of any other person or persons whatsoever, nor for the purpose of obtaining, possessing or disposing of any of the pine trees, growing or being on the said land, or any benefit or advantage therefrom, or any gold, silver, copper, lead, iron, or other mines or minerals, or any quarry or bed of stone, marble or gypsum thereon.

5. And that the said lot is wholly unoccupied and unimproved (except

Sworn before me, at
this day of 18 }

No. 5.—AFFIDAVIT WHERE APPLICANT IS THE MALE OR SOLE FEMALE, HEAD OF A FAMILY.

Set out the name, I, of the in the make
last place of resi- oath and say:
dence, and occu-
pation in full.

1. That I have not heretofore been located for any land under the "Free Grants and Homesteads Act," (except); nor have I obtained a Patent for any land as a Free Grant or any benefit under that Section of the said Act which provides for the remission of arrears due to the Crown by settlers who purchased in Free Grant Townships (except for lot number but that I have absolutely and in good faith parted with the said land so patented to me, and I am entitled to and desire to obtain another location).

2. That I am the male (or) sole female head of a family, having children under eighteen years of age, residing with me, consisting of son and daughter

3. That I desire to be located under the said Act and the Regulations made thereunder for lot number in the concession, and lot number in the concession of the township of

4. That I believe the said lands are suited for settlement and cultivation, and are not valuable chiefly for their mines, minerals, or pine timber.

5. That such location is desired for my benefit, and for the purpose of actual settlement and cultivation of such lands, and not either directly or indirectly for the use or benefit of any other person or persons whatsoever, nor for the purpose of obtaining, possessing or disposing of any of the pine trees growing or being on the said lands, or any benefit or advantage therefrom, or any gold silver, copper, lead, iron or other mines or minerals, or any quarry or bed of stone, marble or gypsum thereon.

6. And that the said lots are wholly unoccupied and unimproved (*except*

Sworn before me, at
this day of 18 . }

We, of the in the in the and
of the in the each for himself, make oath and say: that
I am well acquainted with named in the above affidavit, and that he
is the head of a family and has children, under eighteen years
of age, (consisting of son and daughter), residing with him; and I further
make oath and say that I know lots number in the concession of
the township of referred to above, that I am not aware of any claim to the
said lots on the grounds of occupation, improvements or otherwise, adverse to that of
the applicant, and that the said lots are wholly unoccupied and unimproved (*except*

Sworn before me, at
this day of 18 . }

No. 6.—AFFIDAVIT FOR AN ALLOWANCE ON ACCOUNT OF ROCK AND SWAMP.

State name of ap- I, of the in the , make
plicant in full, last oath and say: that I have not heretofore been located for any land
place of residence, under the "Free Grants and Homesteads Act," except nor
and occupation. have I obtained a Patent for any land as a Free Grant or any benefit
under that section of the said Act which provides for the remission arrears due to
the Crown by settlers who purchased in Free Grant Townships; that I am years
of age, and that I desire to be located for lot number in the concession
of the township of , and also for lot number in the
concession of the said Township; that I have carefully examined the said lands, and
there are at least acres of said lot number which by reason of
thereon, and at least acres of said lot number which by reason of
thereon, and at least acres of said lot number which by reason
of thereon, and at least acres of said lot number which
by reason of thereon, and at least acres of said lot number
which by reason of thereon, and at least acres of said lot
which by reason of cannot be made available for farming purposes, and that
there is no valuable timber growing on said acres of said lots, and that I
believe the said lands, for which I desire to be located as aforesaid, are suited for
settlement and cultivation, and are not valuable for their mines, minerals or pine
timber; and that such location is desired for my benefit and for the purpose of actual
settlement and cultivation of such lands, and not either directly or indirectly for the
use or benefit of any other person or persons whatsoever, nor for the purpose of obtain-
ing possessing or disposing of any of the pine trees growing or being on the said lands,
or any benefit or advantage therefrom, or any gold, silver, copper, lead, iron, or other
mines or minerals, or any quarry or bed of stone, marble or gypsum thereon; and
that the said lots are wholly unoccupied and unimproved (*except*

Sworn before me, at
in the of this }
day of A.D. 18 . }

We, of the of the in the and
of the of in the make oath and say: that we have
carefully examined lot number in the concession of the township of
and also lot number in the concession of the township of
and that there are at least acres of said lot number which by reason of
thereon, and at least acres of said lot number which by reason

of thereon, and at least acres of said lot number which
 by reason of thereon, and at least acres of said lot number
 which by reason of thereon, and at least acres of said lot
 number which by reason of thereon, and at least acres
 of said lot number which by reason of cannot be made available
 for farming purposes, and that there is no valuable timber growing on the said
 acres of said lots, and that the said lots are wholly unoccupied and unimproved
 Sworn before me, at
 in the of this
 day of A.D. 18 }

NO. 7.—AFFIDAVIT FROM APPLICANT IN RAINY RIVER DISTRICT.

ONTARIO,
 DISTRICT OF RAINY RIVER, }
 To Wit :

I, _____ of the _____ Set out the
 _____ in the _____ applicant's
 yeoman, do solemnly swear name in full
 1. That I have not heretofore obtained a free grant in the Province of last place
 of Ontario (except Lot number _____ of residence
 which has been forfeited, (or) that I have absolutely and in good faith sold and occupa-
 and parted with the said land so granted to me, and that I am well entitled tion.
 to, and desire to obtain another location.)

2. That I am over eighteen years of age, (or) that I am the male (or
 sole female) head of a family, having children under eighteen
 years of age residing with me, consisting of sons and
 daughters.)

3. That I desire to be located for
 of the Township of
 under the *Rainy River Free Grants and Homesteads Act*, and in addition
 thereto I desire to purchase of the
 said township, for which I agree to pay, at the price and upon the terms
 fixed by the said Act.

4. That I believe the said land is suited for settlement and cultivation,
 and is not valuable chiefly for its mines, minerals or pine timber; and
 that such location is desired for my own exclusive benefit, and for the
 purpose of actual settlement and cultivation of such land, and not either
 directly or indirectly for the use or benefit of any other person or persons
 whatsoever, nor for the purpose of obtaining, possessing or disposing of
 any of the pine trees, growing or being on the said land, or any benefit or
 advantage therefrom, or any gold, silver, copper, lead, iron or other
 mines or minerals, or any quarry or bed of stone, marble or gypsum
 thereon.

5. That the said land is wholly unoccupied and unimproved (except
 Sworn before me at
 this day of
 , A.D. 189 }

I, _____ and I _____ of the _____
 _____ of the
 yeoman, do solemnly
 swear

1. That I know the above-named applicant.

2. That he is over eighteen years of age, (or) that he is the male (or
 sole female) head of a family, having children under eighteen
 years of age residing with him, consisting of sons and
 daughters.

3. That I know the said land for which he has applied, and that it is
 wholly unoccupied and unimproved (except

Sworn before me at
 this day of
 , A.D. 189 }

NO. 8.—APPLICATION FOR PATENT UNDER THE PROVISIONS OF "THE FREE GRANTS AND HOMESTEADS ACT."

To the Crown Land Agent:

SIR,—I have the honour to apply, under the provisions of "The Free Grants and Homesteads Act," for a Patent from the Crown for my Homestead, upon the grounds set forth in the following affidavits, and have to request that the said Patent, when issued, be mailed to the following address, viz.:

Dated this 18 .

Affidavit of Applicant.

Ontario } I, of the
of } in the
To Wit: } make oath and say:—

- Recommended for Patent this 18 .
Crown Land Agent.
1. That I desire to obtain my Patent under the provisions of the Eighth Section of "The Free Grants and Homesteads Act," for lot of the township of for which lot I was located on the day of 18 .
 2. That since then I have been an actual resident upon, and have cultivated the said lot continuously for years, and that I am still residing upon and cultivating the same.
 3. That I have cleared upon the said lot, and had under cultivation last season acres at least, and that I have erected buildings thereon of the following descriptions and dimensions, viz.: A house fit for habitation x feet at least,
 4. That I have not been located for any other land (except) nor have I obtained Patent for any land, as a Free Grant, or by remission of arrears, under the provisions of the said Act; and that I am well entitled to the Patent for the said lot, and am not aware of any adverse claim thereto on the grounds of occupation, improvements or otherwise.

Sworn before me, at }
this day of 18 . }

Affidavit in Support of Application.

Ontario, } We, of the township of in the
of } of and of the same place, yeomen, each for
To Wit: } himself, make oath and say:

That I know lot in the concession of the township of described in the affidavit of the Applicant for Patent; that the said affidavit has been read over to me, and that all the statements made therein respecting the residence of the said on the said lot, and the cultivation and improvements made by him thereon are true in substance and in fact, and that I am not aware of any adverse claim thereto.

Sworn before me, at }
this day of 18 . }

No. 9.—APPLICATION FOR CANCELLATION OF A LOCATION.

Affidavit of Applicant.

Ontario, } I, _____ of the Township of _____ in the district
 District of } of _____, yeoman, make oath and say :—
 To Wit: } 1. That I desire to be located for lot number _____ in the
 concession of the township of _____

2. That I am informed that the said lot _____ located on the _____ day of
 A.D. 18 _____, to one _____

3. That I know the said lot, and personally visited and examined
 on the _____, and that there was no person at that time residing thereon : and
 that I did not discover any improvements whatever on the said lot ; and that from
 said examination, and from information which I have received, I verily believe that
 the said locatee has never occupied or improved the said lot ;

If locatee has occupied
 or improved at any time
 set out when he ceased
 to occupy, what im-
 provements he made,
 when they were made,
 and in what position
 the lots are at time of
 application.

4. That so far as I am aware the said locatee is not occupying or improving any
 other land in the said township, and resides at present at _____

5. And that I have not, neither has any person for me, either directly or indirectly
 by purchase or otherwise from the said locatee, or any other person, acquired any
 interest in the said lot.

Sworn before me, at _____ }
 in the _____ of _____ this _____ }
 day of _____ A.D. 18 _____ }

Affidavit in Support of Application.

Ontario, } We, _____ of the township of _____ in the district
 District of } of _____ and _____ of the same place, yeomen, each
 To Wit: } for himself, make oath and say :—

1. That I know lot number _____ in the _____ concession of the township
 of _____ which located to _____ and that I personally visited
 and examined the said lot on the _____, that there was no person then residing
 thereon, nor were there any improvements whatever ; and that from said examination,
 and from information which I have received, I verily believe that the said locatee has
 never occupied or improved the said lot ;

If locatee has occupied
 or improved at any time
 set out when he ceased
 to occupy, what im-
 provements he made,
 when they were made,
 and in what position
 the lots are at time of
 application.

2. That the said locatee is not, as far as I am aware, occupying or improving any
 other land in the said township, and that he resides at _____

Sworn before me, at _____ }
 in the _____ of _____ this _____ }
 day of _____ A.D. 18 _____ }

I hereby certify that I have no reason to doubt the statements contained in the
 foregoing affidavits ; and also that I did on the _____ day of _____ mail to the
 locatee of said lots _____ at _____ Post Office, a letter notifying him of the
 application for cancellation, and calling upon him to show cause why it should not be
 allowed, and since then I have not received any reply to the said notice, except _____

Crown Land Agent.

ONTARIO STATUTES, 1889.

CHAPTER 35.

An Act respecting Aid to certain Railways.

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:—

Railway companies granted aid out of the Con. Rev. Fund.

1. Subject to the conditions of this Act aid shall be granted out of the Consolidated Revenue Fund to the undermentioned railway companies for the construction of the portions of railway hereinafter mentioned as follows, that is to say:—

1. The Ontario and Rainy River Railway, from the town of Port Arthur to Fort William, and thence westerly in the direction of Sand Lake, not exceeding in the whole fifty miles, at the rate of \$3,000 per mile;

2. The Manitoulin and North Shore Railway Company, from the village of Little Current to a point on the Canadian Pacific Railway, in the township of Nairn, a distance not exceeding twenty-eight miles, at the rate of \$3,000 per mile;

3. The Parry Sound Colonization Railway Company, from the town of Parry Sound to Burk's Falls on the line of the Northern Pacific Junction Railway, a distance of about forty-five miles, at the rate of \$3,000 per mile;

4. The Nipissing and James' Bay Railway, from North Bay towards Lake Temiscamingue, a distance not exceeding fifty miles, at the rate of \$3,000 per mile;

5. The Brockville, Westport and Sault Ste. Marie Railway Company, from the point where the said railway will intersect the Ontario and Quebec Division of the Canadian Pacific Railway, in the township of Oso to Palmer's Rapids, in the township of Raglan, a distance of about fifty-five miles, at the rate of \$3,000 per mile.

Annual payments may be made in lieu of sum in gross.

2.—(1) In lieu of the said payments in the preceding section mentioned, the Lieutenant-Governor in Council may, at his option, direct that payments shall be made to the said railways, or any of them, at the rate of one hundred and thirty-nine dollars and ninety-two cents per mile per annum, payable half-yearly for forty years.

(2) If half-yearly payments are authorized under this section, the payment in aid shall be computed in manner following, that is to say:—

- (a) If the portion of the railway for which the payment is made has been completed between the first day of January and the first day of July, the payments shall be computed as commencing on the first day of January;
- (b) And if the portion for which the payment is made has been completed between the first day of July and the thirty-first day of December, the payment shall be computed as commencing on the first day of July.

3. All of the said grants of aid are to be respectively subject to the following conditions:—

Conditions to which grants of aid are subject.

1. The Lieutenant-Governor in Council may require any railway company so aided, or any railway company formed by an amalgamation of any company or companies, aided under this Act, with any other railway company or companies, to enter into an agreement or agreements with any other railway company or companies containing such terms and details as the Lieutenant-Governor in Council may approve of, in order to secure running powers or rights of user to such company or companies over the line or portion of the line of railway of the company aided under this Act, or former Acts, or in the discretion of the Lieutenant-Governor in Council, for the haulage thereover of the cars and traffic of such other company or companies or for the expenditure of the aid hereby granted to the Ontario and Rainy River Railway on the construction of the Port Arthur, Duluth and Western Railway, over the course or route hereinbefore indicated, with respect to the Ontario and Rainy River Railway, upon such terms as in default of agreement between the respective companies, may be settled upon by the Lieutenant-Governor in Council.

2. No payment shall be made to any of the said companies in respect of the said grants in aid for any portion of their railway, until the Commissioner of Public Works shall have reported to the Lieutenant-Governor in Council that such company has completed the portion of its road in respect of which payment is to be made (including such sidings and station houses as the Commissioner may think necessary for the accommodation of the public), within the period for completing the railway or portion thereof named in the Acts relating to the company, or such other period as may by any other Act be fixed for such purpose.

3. Payments may be made as portions of the railway, not less than ten continuous miles, are completed as aforesaid; and in cases where the whole distance aided is less than ten miles, then for such distance.

4 After a company has complied with the conditions necessary, and the Commissioner has reported as aforesaid; the Lieutenant-Governor in Council may, at his option, authorize either the gross cash payment to be made, or that scrip or certificates may be issued for and in respect of the said grant; and every such certificate shall, when signed by the Treasurer of this Province and the Accountant in his Department, and countersigned by the Auditor, be valid and binding on the Province, according to its tenor and effect; and it shall not be necessary for any transferee, in good faith, of such certificate to enquire into or obtain proof of any facts stated therein, all of which shall be deemed conclusive as against the Province in favour of such transferee.

5. Each of the said companies shall furnish such information of the progress of the works on the railway of the company as may from time to time be required by the Commissioner of Public Works; and also such statistical or other details, accounts and information as from time to time may be required from them by the Commissioner after the completion of the railway.

6. The location, grades, the widths and slopes of cuttings and embankments, the plans of bridges, culverts, buildings and other structures, the weight and section of iron rails and other details of proposed construction of the railways mentioned, shall be subject to inspection and approval by the Government Engineer, before the commencement of the works, as well as after completion.

7. In order to secure the continuous running of the railways aided by this Act, the iron or steel rails laid from time to time by any of the said railways are not to be removed by the company, or by the authority of the company, without the consent of the Lieutenant-Governor in Council, obtained on the recommendation of the Commissioner of Public Works.

Land set
apart to form
railway sub-
sidy fund.

4. Whereas the construction of colonization railways will promote the settlement, and increase the value of certain unsettled lands of the Province; and whereas it is desirable that a portion of the said lands should be set apart and sold for the purpose of forming a fund to recoup the Province in respect of moneys expended in aiding railways—there is hereby set apart for the purpose of being sold and the proceeds applied to form the fund aforesaid—a tract of land at least ten miles in width on each side of the lines of railways to which aid is granted as aforesaid, or on each side of the lines of the said railways as the same may be finally located and established.

Terms of sale.

5. The said lands so set apart shall be sold at such price not less than two dollars per acre, and on such terms and conditions otherwise as the Lieutenant-Governor may from time to time determine.

6. The moneys arising from the sale of the lands so set apart shall constitute a fund to be called "The Railway Subsidy Fund, 1889," and a separate account of the same shall be kept by the Treasurer of the Province.

Appropriation of moneys derived from sales.

7. The said Railway Subsidy Fund shall be applied as follows :—

Application of railway subsidy fund.

1. The cost and expenses of the collection of the said fund shall form and be the first charge thereon.

2. The remainder of the said fund shall be applied so far as necessary in or towards payment of the moneys by any Act of this session granted, or which may hereafter be granted in aid of railways.

8. All pine trees upon the said lands shall be reserved from sale, and the proceeds of the sale of the said trees shall form no part of the said Railway Subsidy Fund.

Pine trees reserved.

9. In case, after the said lands are placed in the market, the Commissioner of Crown Lands reports in writing that any particular portion or portions of the lands so set apart, is or are not worth two dollars per acre, it shall be lawful for the Lieutenant-Governor in Council to reduce the said price, and the same may thereafter be sold at such reduced rate.

Reduction of price of lands.

10. Notwithstanding anything herein contained, the Lieutenant-Governor in Council may dispose, by way of free grant, of any of the lands so set apart as aforesaid, for the right of way of any railway, or for railway stations, workshops or any lands necessarily required for constructing or working any railway, or any other lands required for public purposes, and of which the Lieutenant-Governor in Council may deem it to be in the public interest to make free grants.

Lands may be granted for right of way free of charge.

ONTARIO STATUTES, 1890.

CHAPTER 46.

An Act respecting Aid to Certain Railways.

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:—

Railway companies granted aid out of Con. Rev. Fund.

1. That there be granted out of the Consolidated Revenue Fund to the undermentioned Railway Companies for the construction of the portions of railway hereinafter mentioned that is to say:—

(1) To the Ontario and Rainy River Railway a cash subsidy of three thousand dollars per mile (\$3,000) for the construction of thirty miles of said railway westward from the point near Sand Lake where the fifty miles terminate for which aid was granted by chapter 35 of the Acts passed in the 52nd year of Her Majesty's reign, entitled *An Act respecting aid to certain Railways*.

(2) To the Ottawa and Parry Sound Railway from Egansville to a point in the township of Sherwood, a distance not exceeding thirty miles, a cash subsidy of \$3,000 per mile.

52 V. c. 35, s. 2, to apply.

2. That all the provisions of section 2 of chapter 35 of the Acts passed in the 52nd year of Her Majesty's reign, respecting the option of substituting half-yearly payments for forty years in lieu of a cash payment, and all the conditions provided by section 3 of said Act shall apply to the grants hereby made.

Proviso.

Provided, that any arrangements made between the Rainy River Railway Company and the Port Arthur, Duluth and Western Railway Company providing for the expenditure of any part of the aid hereby granted in the construction of any portion of the line of the Port Arthur, Duluth and Western Railway shall be subject to the approval of the Lieutenant-Governor in Council.

Land set apart to form railway subsidy fund.

3. That for the purpose of forming a subsidy fund, there is hereby set apart, so much of the lands of this Province belonging to the Crown as lie within the distance of ten miles on each side of those portions of the Ottawa and Parry Sound Railway, and the Rainy River Railway to which aid is hereby granted, or on each side of that portion of the Port Arthur,

Duluth and Western Railway upon which, by agreement between the Companies, any portion of the aid now or heretofore granted out of the Consolidated Fund may be expended, which land shall be sold and dealt with in the same manner as provided in sections 4 to 10 inclusive; of the said chapter 35 of the Acts passed in the 52nd year of Her Majesty's reign.

4. Whereas by the Act passed in the 52nd year of Her Majesty's reign, chaptered 35, and intituled *An Act respecting aid to certain Railways*, it was provided that aid should be granted out of the Consolidated Revenue Fund to the Parry Sound Colonization Railway Company from the town of Parry Sound to Burk's Falls on the line of the Northern Pacific Junction Railway, a distance of about forty-five miles at the rate of \$3,000 per mile; and, whereas, it is alleged that engineering difficulties exist which make the proposed line to Burk's Falls too expensive to be practicable, and it is expedient that the truth of the said allegation should be ascertained by independent examination and enquiries to be hereafter made, the Lieutenant-Governor in Council is to cause such independent examination and inquiries to be made, and if it shall appear to the satisfaction of the Lieutenant-Governor in Council that the proposed line of the Parry Sound Colonization Railway Company to Burk's Falls is too expensive to be practicable owing to engineering difficulties the Lieutenant-Governor in Council may consent to the said line being altered to some point on the line of the Northern Pacific Junction Railway as near as may be to Burk's Falls and may direct that the bonus granted to the said railway company by the said Act shall be paid to the said company for the portion of its railway constructed in accordance with such consent.

Lieutenant-Governor to cause enquiry to be made as to practicability of line from Parry Sound to Burk's Falls.

Regulations Respecting Railway Lands.

Copy of an Order in Council approved by His Honour the Lieutenant-Governor, the 17th day of January, A.D. 1890.

The Committee of Council concur in the recommendation contained in the annexed report of the Honourable the Commissioner of Crown Lands, respecting the terms and conditions of sale of certain land in the Railway belts in the Townships in the said report mentioned, and lying on each side of the following lines of railways, and advise that the same be acted upon.

- (1) The Ontario and Rainy River Railway.
- (2) The Manitoulin and West Shore Railway.
- (3) The Parry Sound Colonization Railway.
- (4) The Nipissing and James Bay Railway.
- (5) The Brockville, Westport and Sault Ste. Marie Railway.

Certified.

JOHN R. CARTWRIGHT,
Clerk Executive Council,
Ontario.

The Honourable,
THE COMMISSIONER OF CROWN LANDS.

The Commissioner of Crown Lands has the honour to report that by Chapter 35 of the Statutes of Ontario for 1889, called "An Act Respecting Aid to certain Railways," it was provided that a tract of land at least ten miles in width on each side of lines of the following Railways:—

- 1st. The Ontario and Rainy River Railway.
- 2nd. The Manitoulin and West Shore Railway.
- 3rd. The Parry Sound Colonization Railway.
- 4th. The Nipissing and James Bay Railway.
- 5th. The Brockville, Westport and Sault Ste. Marie Railway, should be set apart for the purpose of being sold and the proceeds applied to form a fund to recoup the Province in respect of moneys expended in aiding Railways, and that the said lands should be sold at such price, not less than two dollars per acre, and on such terms and conditions otherwise, as your Honour might from time to time determine.

That by Order in Council passed on the 25th day of May 1889, the following Townships and portions of Townships, being within the ten mile belts hereinbefore mentioned, and open for location and sale as Free Grants, or under regulations not in accordance with the provisions of the said Act, were withdrawn from location and sale, viz:—

- 1st. Along the line of the Ontario and Rainy River Railway, the

Townships of McIntyre, O'Connor, Conmee, Oliver, Marks, Paipoonge, Neebing, Blake, Gillies, Lybster and Strange in the District of Thunder Bay.

2nd. Along the line of the Manitoulin and West Shore Railway, the Townships of Baldwin, Merritt, Foster, McKinnon, the south half of Nairn and the south half of Lorne, in the District of Algoma.

3rd. Along the line of the Parry Sound Colonization Railway, the Townships of Chapman, Ryerson, Monteith, Spence, McKellar, Christie, Foly, McDougall, and parts of McMurrich, Croft, Hagerman, Ferguson, Armour and Perry, in the District of Parry Sound.

4th. Along the line of the Nipissing and James Bay Railway, the Townships of Widdifield, Mulock, Merrick, Stewart, Notman and Blyth in the District of Nipissing.

5th. Along the line of the Brockville, Westport and Sault Ste. Marie Railway, the Townships of Palmerston, Clarendon, South Canonto, North Canonto and Miller, in the County of Frontenac; Abinger, Ashby, Denbigh and Effingham, in the County of Addington; Matawatchan, Griffith, Lyndoch, Brudenell, Raglan and portions of Sebastopol and Radcliffe in the County of Renfrew, and a portion of Carlow in the County of Hastings.

That applications are from time to time received for lots in the said Townships, and it is advisable that the terms upon which they are to be sold should now be determined.

He therefore recommends that the land in the said Railway belts in the Townships named, when possessing a mineral value, shall be sold at two dollars per acre cash, under the Mining Act.

That lands suitable for agricultural purposes shall be sold at two dollars per acre, payable one-third in cash and the balance in two equal annual instalments with interest at six per cent. per annum, subject to the following conditions of settlement being performed before the issue of the patent, (1) Occupation for two years, (2) Clearing and having under crop at least ten acres for every one hundred acres, (3) Erection of a habitable house 16 x 20 feet.

And that the purchasers, or those claiming under them, shall have the right, as provided for in the regulations made under the Public Lands Act and the Free Grants Act, to cut and use such pine trees as may be necessary for building and fencing on the land so sold, and also to cut and dispose of all pine trees required to be removed in actually clearing their land for cultivation. But no pine trees, except for the necessary building and fencing as aforesaid, shall be cut beyond the limit of the actual clearing; and all pine trees so cut and disposed of shall be subject to the payment of the same dues as are at the time payable by the holders of licenses to cut timber or sawlogs.

ARTHUR S. HARDY,

Commissioner of Crown Lands.

PART II.

ACTS RESPECTING MINING LANDS AND MINING
OPERATIONS.

CHAPTER 31.

An Act respecting Mining.

SHORT TITLE, s. 1.	FORFEITURE OF CLAIM—
INTERPRETATION, s. 2.	For failure to give notice, s. 21.
ROYALTIES ON MINERALS AND RESER- VATIONS OF MINES IN PATENTS REPEALED, ss. 3, 4.	For failure to work, ss. 22, 23.
NO RESERVATION OF MINES TO BE MADE IN PATENTS, s. 5.	ONLY ONE CLAIM TO BE OCCUPIED AT A TIME, s. 24.
CROWN LANDS MAY BE EXPLORED FOR MINES, s. 6.	LICENSE TO BE EXHIBITED, s. 25.
SALE OF MINING LOCATIONS, ss. 7-12.	DISCOVERIES OF NEW MINES, ss. 26, 27.
Form and size of location, s. 9.	PARTY WALLS, ss. 28, 29.
Survey, s. 10.	LICENSEES NOT TO DAMAGE OTHER CLAIMS, s. 30.
Price, s. 11.	REGISTRATION TO PRESERVE CLAIMS RENDERED TEMPORARILY UN- WORKABLE, ss. 31, 32.
Reservation of timber, s. 12.	CONSTABLES IN MINING DIVISIONS, s. 33.
MINING DIVISIONS, s. 13.	RIOTS IN MINING DIVISIONS, s. 34.
INSPECTOR AND OFFICERS, ss. 14, 15.	REGULATIONS BY LIEUT.-GOVERNOR, s. 35.
MINING LICENSES, s. 16.	PENALTIES, ss. 36-40.
POWER OF LICENSEES, ss. 17, 18.	INSPECTORS TO HAVE NO INTEREST IN MINING CLAIMS, s. 41.
DIMENSIONS OF MINING CLAIMS, ss. 19, 20.	
NOTICE OF CLAIMS TO BE GIVEN TO INSPECTOR, s. 21.	

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:—

1. This Act may be cited as "*The General Mining Act.*" Short title.
R. S. O. 1877, c. 29, s. 1.

2. Where the following words occur in this Act, and in Interpretation.
Orders in Council, or regulations under it, they shall be construed in the manner hereinafter mentioned unless a contrary intention appears:—

1. The verb "mine," and the participle "mining," shall mean "Mine" and
and include any mode or method of working whatsoever, "mining."
whereby the soil or earth, or any rock, stone, or quartz, may be
disturbed, removed, carted, carried, washed, sifted, smelted,
refined, crushed, or otherwise dealt with for the purpose of
obtaining any metal or metals therefrom, whether the same
may have been previously disturbed or not.

2. "Mines" shall mean and include all rocks, soils, or strata, "Mines."
containing any metal or metals, and all places where the work
of mining as above defined may be carried on.

"Mining division."

3. "Mining Division" shall mean and include any tract of country declared to be a Mining Division within this Act.

"Crown lands."

4. "Crown Lands" shall mean and include all Crown Lands School Lands, or Clergy Lands, not in the actual use or occupation of the Crown, or of any public department of the Government of the Dominion of Canada or of this Province, or of any officer or servant thereof, and not under lease or license of occupation from the Crown or the Commissioner of Crown Lands, and as to which no adverse claim exists, which is subsequently recognized by the Commissioner of Crown Lands.

"Party wall."

5. "Party wall" shall mean a bank of earth or rock left between two excavations. R. S. O. 1877, c. 29, s. 2.

All royalties, etc., reserved by any patent repealed.

3. All royalties, taxes or duties which, by any patent or patents heretofore issued, have been reserved, imposed or made payable upon, or in respect of any ores or minerals extracted from the lands granted by such patents, and lying within this Province, are hereby repealed and abandoned; and such lands, ores and minerals, shall henceforth be free and exempt from every such royalty, tax or duty. R. S. O. 1877, c. 29, s. 3.

Reservations of gold and silver mines in any patent already issued rescinded.

4. Reservations of gold and silver mines contained in any patent heretofore issued, granting in fee simple land or lands situate within this Province, are hereby rescinded and made void, and all such mines in or upon such lands shall be deemed to have been granted in fee simple as part of such lands, and to have passed with such lands to the subsequent and present proprietors or owners thereof in fee simple. R. S. O. 1877, c. 29, s. 4.

No reservations in patents of mining lands.

5. No reservation or exception of gold, silver, iron, copper or other mines or minerals, shall be inserted in any patent from the Crown granting lands in this Province sold as mining lands. R. S. O. 1877, c. 29, s. 5.

Crown lands may be explored for mines, etc.

6. Any person or persons may explore for mines or minerals on any Crown Lands, surveyed or unsurveyed, and not for the time being marked or staked out and occupied as hereinafter mentioned. R. S. O. 1877, c. 29, s. 6.

Crown lands may be sold as mining lands, etc.

7. Crown Lands supposed to contain mines or minerals may be sold as mining lands, or may, when situate within a Mining Division, be occupied and worked as "mining claims" under miners' licenses, as hereinafter provided. R. S. O. 1877, c. 29, s. 7.

Mining locations.

8. Such lands so sold, when situate in unsurveyed territory, or in Townships surveyed in sections, shall be sold in blocks to be called "mining locations." R. S. O. 1877, c. 29, s. 8.

Form and size of mining locations.

9. Mining locations under this Act shall conform to the following requirements:—

1. *By Chapter 9, of the Ontario Statutes 1890, this sub-section has been amended as follows:—*In the unsurveyed territory within the districts of Algoma, Thunder Bay and Rainy River, and that part of the district of Nipissing which lies north of the French River, Lake Nipissing and the River Mattawa, every regular mining location shall be rectangular in shape, and the bearings of the outlines thereof shall be due north and south and due east and west astronomically; and such location shall be of one of the following dimensions, namely, eighty chains in length by forty chains in width, containing three hundred and twenty acres, or forty chains square, containing one hundred and sixty acres, or forty chains in length by twenty chains in width, containing eighty acres, or twenty chains in length by twenty chains in width, containing forty acres.

2. Where a mining location in the unsurveyed lands in the territory aforesaid, borders upon a lake or river, a road allowance of one chain in width shall be reserved along the margin of the lake or river; and the width of the location shall front on the road allowance; and the bearings of the other outlines of the location shall be due north and south, and due east and west astronomically; and the location shall otherwise conform to the requirements of the preceding sub-section as nearly as the nature of the land will admit.

When locations border on lakes and rivers in said territory.

3. In the townships in the said territory surveyed, or hereafter to be surveyed in sections, every mining location, after such survey, shall consist of a half section, a quarter section, or an eighth of a section, or a sixteenth of a section.

When in townships in said territory surveyed in sections.

4. In all patents for mining locations in the territory aforesaid, there shall be a reservation for roads of five per centum of the quantity of land professed to be granted.

Reservation for roads.

5. In the unsurveyed lands not situate within the limits of the territory aforesaid, mining locations shall be as may be defined by any Order in Council hereafter to be made. R. S. O. 1877, c. 29, s. 9.

Locations in other unsurveyed territory.

10. Mining locations in unsurveyed territory shall be surveyed by a Provincial Land Surveyor, and be connected with some known point in previous surveys, or with some other known point or boundary (so that the tract may be laid down on the office maps of the territory in the Crown Lands Department), at the cost of the applicants, who shall be required to furnish, with their application, the surveyor's plan, field notes and description thereof, shewing a survey in accordance with this Act, and to the satisfaction of the Commissioner of Crown Lands. R. S. O. 1877, c. 29, s. 10.

How mining locations in unsurveyed territory to be surveyed.

11. The price of all Crown Lands to be sold as mining locations in the said territory, mentioned in sub-section 1 of section 9 of this Act, shall be \$2 per acre. R. S. O. 1877, c. 29, s. 11; 49 V. c. 8, s. 1.

Price of locations.

12. The patents for all Crown Lands, hereafter to be sold as mining lands, shall contain a reservation of all pine trees standing

Pine trees reserved.

5 (o.)

Patentees may use timber for building, fencing, etc., on the land.

Timber cut to be subject to dues.

Mining divisions, how to be declared.

Appointment and powers of Inspectors of mining divisions.

Inspector to be a Justice of the Peace.

Power to settle disputes between licensees.

or being on the said lands, which pine trees shall continue to be the property of Her Majesty; and any person now or hereafter holding a license to cut timber or saw logs on such lands, may, at all times, during the continuance of the license, enter upon such lands, and cut and remove such trees, and make all necessary roads for that purpose; but the patentees, or those claiming under them, may cut and use such trees as may be necessary for the purpose of building, fencing and fuel, on the land so patented, or for any other purpose essential to the working of the mines thereon; and may also cut and dispose of all trees required to be removed in actually clearing the land for cultivation; but no pine trees (except for the said necessary building, fencing and fuel, or other purpose essential to the working of the mine), shall be cut beyond the limit of such actual clearing; and all pine trees so cut and disposed of (except for the said necessary building, fencing and fuel, or other purpose aforesaid), shall be subject to the payment of the same dues, as are at the time payable by the holders of licenses to cut timber or saw logs. R. S. O. 1877, c. 29, s. 12.

13. The Lieutenant-Governor in Council may, from time to time by Order in Council, declare such tract of country as may be described in and by the Order in Council a "Mining Division;" and by any other subsequent Order or Orders in Council may, from time to time, extend, add to or diminish the limits of the Division, or may otherwise amend, or may cancel such Order in Council; and, from and after the publication in the *Ontario Gazette* of such Order in Council, the Mining Division therein mentioned and described, and all mines on Crown Lands situate in the Division, shall be subject to the provisions of this Act, and to any regulations to be made under this Act. R. S. O. 1877, c. 29, s. 13.

14. The Lieutenant-Governor may appoint, for every Mining Division, or for any part thereof, an Inspector, who shall be under the direction of the Commissioner of Crown Lands, and, by Order in Council, may prescribe the duties and fix the salary of such Inspector. R. S. O. 1877, c. 29, s. 14.

15.—(1) Every Inspector shall be *ex officio* a Justice of the Peace of the County or United Counties, District or Districts, which a Mining Division comprehends or includes, in whole or in part, or in which, or in any portion of which, a Mining Division lies; and it shall not be necessary that he shall possess any property qualification whatever in order to enable him lawfully to act as such Justice of the Peace.

(2) Every Inspector shall have jurisdiction as a Justice of the Peace over all the territory comprised within the Division for which he is appointed, and shall have power to settle summarily all disputes between licensees as to the existence or

forfeitures of mining claims, and the extent and boundary thereof, and as to the use of water and access thereto, and generally, to settle all difficulties, matters or questions between licensees which may arise under this Act; and the decision of such Inspector, in all cases under this Act, shall be final, except where otherwise provided by this Act, or where another tribunal is appointed under the authority of this Act; and no case under this Act shall be removed into any Court by writ of *certiorari*. R. S. O. 1877, c. 29 s. 15.

16.—(1) The Inspector of a Mining Division may, on payment to him of a fee of \$5, grant to the party applying for the same, a license to be called a “miner’s license.” Mining licenses.

(2) Every miner’s license shall be in force for one year from the date thereof, and shall not be transferable; and only one person shall be named therein, who shall be called the licensee, and who, before the expiration of the license, or within not later than ten clear days thereafter, shall have the right to a renewal of the license, by the Inspector for the Division, on payment to him of the like fee of \$5, or such other sum as may then be the fee fixed by law for miner’s licenses. Duration, etc., of license.

(3) A miner’s license may be in the following form:— Form.

PROVINCE OF ONTARIO.

No. (Name of Division) Mining Division. \$5.

(Date.)

18

Miner’s License—Not Transferable.

Issued to *A. B.*, under the provisions of *The General Mining Act*, to be in force for one year from the date thereof.

C. D., Inspector of

Mining Division.

R. S. O. 1877, c. 29, s. 16.

17. A miner’s license shall authorize the licensee personally and not through another, to mine during one year from the date of the license, and from the date of any renewal thereof, on any mining claim marked or staked out by such licensee on Crown Lands, as hereinafter provided; but any person or persons not occupying any other mining claim, may be employed by the licensee to assist him in working such claim. Powers of licensees under license.
R. S. O. 1877, c. 29, s. 17.

18. The licensee shall have the right to mark or stake out within the Division mentioned in his license, a mining claim on any Crown Lands (not for the time being included in a mining claim occupied by another licensee), by planting a wooden or iron picket at each of the four corners thereof, or otherwise marking the same as may be directed by Order in Council, and to work the same. Licensee may mark out claim.
R. S. O. 1877, c. 29, s. 18.

Dimensions of
claims.

19. Each mining claim shall be of the following dimensions namely :—

1. For one person, two hundred feet along a vein or lode by one hundred feet on each side thereof, measuring from the centre of the vein or lode.
2. Companies of two or more persons who each hold a miner's license, may stake out and work additional feet along a vein or lode by the above width in the proportion of one hundred additional feet in length for every additional miner, not to exceed one thousand feet in length altogether, and may work the claim jointly. R. S. O. 1877, c. 29, s. 19.

Rules as to
laying out
claims.

20. Mining claims shall be laid out as far as possible, uniformly, and in quadrilateral and rectangular shapes; and the measurements of all such claims shall be horizontal; and the ground included in every claim shall be deemed to be bounded under the surface by lines vertical to the horizon; except that every mining claim shall include and shall authorize the licensee to work every dip, spur, and angle of the vein or lode laterally to the depth to which the same can be worked, with all the earth and minerals therein. R. S. O. 1877, c. 29, s. 20.

Forfeiture of
claims by fail-
ure to notify
inspector,

21. Every Inspector appointed under this Act, shall keep a book for the recording therein of mining claims, which book shall be open to inspection by any person on payment of a fee of twenty cents; and every licensee who has marked or staked out a mining claim under this Act, shall within thirty days thereafter, give a notice thereof in writing to the Inspector of the Division, stating the name of the licensee, and indicating, by some general statement therein, the locality of the mining claim, and shewing how and when the same was marked or staked out; and the Inspector shall thereupon forthwith record the particulars of the notice in the book; and, if the licensee fails to give notice within the time aforesaid, the mining claim so marked or staked out shall be deemed to be forfeited and abandoned, and all right of the licensee therein to cease. R. S. O. 1877, c. 29, s. 21.

and by allow-
ing same to
remain un-
worked.

22. A mining claim shall also be deemed to be forfeited and abandoned, and all right of the licensee therein to cease, in case the mining claim remains unworked for the space of three months after the same has been first marked or staked out as aforesaid, or if the same at any time, after the expiration of three months, remains unworked for the space of fifteen days; Provided, however, that in case it is shewn to the satisfaction of the Inspector of the Division, either before the expiration of the respective periods aforesaid, or within fifteen days thereafter, that the non-working of such claim arose from the illness of the licensee, or other reasonable cause satisfactory to the Inspector, he may extend the time during which the mining claim may remain unworked for such

Proviso.

further period of time as he thinks reasonable, and may in like manner, thereafter, for reasonable cause established to his satisfaction, grant further extensions of the time during which the claim may remain unworked without being liable to forfeiture; and the Inspector shall forthwith enter in the said book all enlargements or extensions of the time granted by him. R. S. O. 1877, c. 29, s. 22.

23. No mining claim within a Division shall be considered unworked, within the meaning of the last section, during the time that an Order in Council directs that work on mining claims within such Mining Division may be suspended. Exception. R. S. O. 1877, c. 29, s. 23.

24. No person shall occupy at the same time more than one mining claim on Crown Lands, except in the cases hereinafter provided for of registration of claims rendered temporarily unworkable. No person to occupy more than one claim. R. S. O. 1877, c. 29, s. 24.

25. Every licensee shall be held and required to produce and exhibit his license to the Inspector for the Division, and to prove, to the satisfaction of the Inspector, that the license is in force, whenever required to do so by him. License to be exhibited to inspector on demand. R. S. O. 1877, c. 29, s. 25.

26. The discoverer of a new mine shall be entitled to two mining claims of the area prescribed by sub-section 1 of section 19 of this Act. Right of discoverer of new mine. R. S. O. 1877, c. 29, s. 26.

27. No person shall be considered the discoverer of a new mine unless the place of the alleged discovery is distant, if on a known vein or lode, at least three miles from the nearest known mine on the same vein or lode. What deemed a discovery. R. S. O. 1877, c. 29, s. 27.

28. A party wall of at least three feet thick shall be left between every mining claim on Crown lands, which party wall shall be used in common by all parties as a mode of access to the stream, where one exists; and the party wall shall not be obstructed by any person throwing soil, stone or other material thereon; and every person so obstructing the party wall, shall be liable to a fine of not more than \$5 and costs; and, in default of payment of the fine and costs, to be imprisoned for any period not more than one month. Party walls to be left between claims, and kept clear. R. S. O. 1877, c. 29, s. 28.

29. If at any time it is found necessary or expedient to remove a party wall as aforesaid, the person so removing it shall, if required so to do, construct a new mode of access to the water in no wise more difficult as an approach than the one destroyed by the removal of the party wall, under a like penalty, as provided in the next preceding section; and in case of a removal of a party wall, the minerals found therein shall belong to the owners of the adjoining claims, each of whom shall own the half next to his claim. Person removing party wall to construct new mode of access to water. R. S. O. 1877, c. 29, s. 29.

Crown lands
licensees not to
damage other
claims.

30. No person mining upon Crown lands shall cause damage or injury to the holder of any other claim than his own, by throwing earth, clay, stones or other material upon such other claim, or by causing or allowing water which may be pumped or bailed or may flow from his own claim to flow into or upon such other claim, under a penalty of not more than \$5 and costs; and, in default of payment of the fine and costs, he may be imprisoned for any period not more than one month. R. S. O. 1877, c. 29, s. 30.

Penalty.

Provision for
registration of
claim rendered
unworkable
for a time.

31. In case a mining claim on Crown lands occupied by a licensee cannot be worked in consequence of an excess of water or other unavoidable cause, established to the satisfaction of the Inspector for the Division, the Inspector shall, on the application of the licensee, and on receipt of \$1, make an entry in the book, to be kept by him as aforesaid, of the cause or reason for the claim not being worked; and thereupon and upon the licensee planting a wooden or iron picket as near the centre of the claim as possible, upon which is cut or painted his name or initial letters of his name, the licensee may occupy and work another mining claim; but, in case the licensee does not return and occupy the first mentioned claim within fifteen days after the adjacent or surrounding claim or claims have been shewn to be workable, he shall forfeit all right and title to the said claim. R. S. O. 1877, c. 29, s. 31.

Penalty for re-
moving picket.

32. Any person found removing or disturbing, with intent to remove, any stake, picket, or other mark placed under the provisions of this Act, shall forfeit and pay a sum not exceeding \$20 and costs; and in default of payment of the fine and costs may be imprisoned for any period not exceeding one month. R. S. O. 1877, c. 29, s. 32.

Appointment
of constables
in mining
divisions.

33. Every Inspector appointed in and for a Mining Division under this Act may appoint any number of constables not exceeding four; and the persons so from time to time appointed shall be, and they are hereby constituted, respectively, constables and peace officers for the purposes of this Act, for and during the terms, and within the Mining Divisions, for which they are appointed respectively. R. S. O. 1877, c. 29, s. 33.

Act respecting
riots near pub-
lic works to be
in force in
mining divi-
sions.

Rev. Stat.
c. 34.

34.—(1) The Lieutenant-Governor in Council may, as often as occasion requires, declare by proclamation that he deems it necessary that *The Act respecting Riots near Public Works*, shall, so far as the provisions therein are applicable, be in force within any Mining Division or Divisions; and upon, from, and after the day to be named in any such proclamation, section 1 and sections 3 to 11 inclusive of the said Act shall, so far as the provisions thereof can be applied therein, take effect within the Mining Division or Mining Divisions designated in the proclamation; and the provisions of the said Act shall apply to all persons employed

in any mine, or in mining within the limits of such Mining Division or Divisions, as fully and effectually to all intents and purposes as if the persons so employed had been specially mentioned and referred to in the said Act.

(2) The Lieutenant-Governor in Council may, in like manner, from time to time declare the said Act to be no longer in force in such Mining Division or Divisions; but this shall not prevent the Lieutenant-Governor in Council from again declaring the same to be in force in any such Mining Division or Mining Divisions; and no such proclamation shall have effect within the limits of any City. R. S. O. 1877, c. 29, s. 34.

35. The Lieutenant-Governor in Council may, from time to time, make such regulations as he deems necessary or expedient, for the appointment of arbitrators or Mining Boards to hear and determine appeals from the decisions of Inspectors of Divisions; for the prescribing, defining and establishing the powers, duties and mode of procedure of the arbitrators or Mining Boards; for the opening, construction, maintenance and using of roads through or over mining claims, mining locations or lands hereafter sold as mining lands; and for the opening, construction, maintenance and using of ditches, aqueducts or raceways, through or over such claims, locations or lands for the conveyance and passage of water for mining purposes, and generally for the purpose of carrying out this Act; and such regulations, after publication in the *Ontario Gazette*, shall have the force and effect of law. R. S. O. 1877, c. 29, s. 35.

Lieutenant-Governor in Council may make regulations.

36. Every person contravening this Act, or any rule or regulation made under it, in any case where no other penalty or punishment is imposed, shall, for every day on which such contravention occurs, or continues or is repeated, incur a fine of not more than \$20 and costs; and, in default of payment of the fine and costs, he may be imprisoned for a term of not more than one month. R. S. O. 1877, c. 29, s. 36.

Penalty for contravening this Act.

37. Every Inspector for a Mining Division may convict upon view of any of the offences punishable under the provisions of this Act, or any regulations made under it. R. S. O. 1877, c. 29, s. 37.

Inspector may convict on view.

38. The contravention on any day of any of the provisions of this Act, or of any regulation made under it, shall constitute a separate offence and may be punished accordingly. R. S. O. 1877, c. 29, s. 38.

Separate offence.

39. Fees, penalties and fines received under this Act, and the costs of all such convictions as take place before any Inspector or Magistrate appointed under this Act, shall form part of the Consolidated Revenue Fund of this Province, and be accounted for and otherwise dealt with accordingly; and the expenses of carrying this Act into effect, in any Mining Division or Mining Divisions, shall be paid by the Lieutenant-Governor out of the said Consolidated Revenue Fund. R. S. O. 1877, c. 29, s. 39.

Application of fees, fines, and penalties.

Mode of trial
by Inspector
or Justices.

40. The Inspector of any Mining Division, or any two Justices of the Peace, having jurisdiction in the locality, may try and summarily convict any person guilty of any offence under this Act, or of any breach of the provisions thereof, to which any fine or penalty, or forfeiture of money is attached, and shall have all the powers of Justices of the Peace under *The Act respecting Summary Convictions before Justices of the Peace and Appeals to General Sessions* ; but this section shall not be construed to give jurisdiction to try or summarily convict for any breach of the provisions of the next section of this Act. R. S. O. 1877, c. 29, s. 40.

Inspector to
have no inter-
est in mining
claims, etc.

Penalty.

41. No Inspector, appointed under this Act, shall, either directly or indirectly, while he is Inspector, purchase or be or become proprietor of, or interested in, any Crown Lands or mining claim within the Division for which he is Inspector ; and any such purchase or interest shall be void ; and if an Inspector offends in the premises, he shall forfeit his office and the sum of \$500 for every such offence, to be recovered in an action by any person who sues for the same. R. S. O. 1877, c. 29, s. 41.

By Chapter 9, of Ontario Statutes, 1890, it was provided that the following section should be added to and form part of the General Mining Act :—

42.—(1) The Lieutenant-Governor may, from time to time appoint local officers or agents to receive applications for the sale of mining lands in their respective agencies and to carry out the provisions of any regulations and Orders-in-Council in that behalf, and to supply information to intending purchasers and they shall be paid in such manner and at such rates as the Lieutenant-Governor in Council may direct.

(2) The Lieutenant-Governor in Council may, from time to time, make such regulations as he deems necessary or expedient for the purpose of carrying out this section

NO. 10.—AFFIDAVIT IN SUPPORT OF APPLICATION FOR LAND UNDER THE MINING ACT.

Ontario, } I, _____ of the township of _____ in the district
District of } of _____ and I, _____ of the township of _____
To Wit : } in the district of _____ do solemnly swear :—

1. That on the _____ day of _____ I personally visited and carefully examined _____ lot number _____ in the _____ concession of the township of _____ and at that time there was no person residing on said lot, and there were no improvements thereon.

2. That there was no visible trace nor indication of work having been done on said lot by any person or persons for mining or other purposes.

3. And that to the best of my knowledge and belief there is no claim to said lot by any person or persons adverse to that of _____ the applicant on the ground of priority of discovery of mineral thereon, or otherwise.

Sworn before me, at _____ }
in the district of _____ this _____ }
day of _____ A.D. 18 _____ }

ONTARIO STATUTES, 1890.

CHAPTER 10.

An Act Respecting Mining Regulations.

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:—

Preliminary.

1. This Act may be cited as *The Mining Operations Act*, Short title. 1890, and shall come into operation on the first day of July, 1890.

2. This Act shall not apply to any mine unless more than six persons, other than the owner, are employed under ground, nor to stone quarries; but nevertheless the owners or agents of such mines shall observe and keep the provisions of sections 4 and 5 of this Act, and in case of non-observance thereof shall incur the penalties provided for by section 17 of this Act. Application of Act.

3. In this Act, unless the context otherwise requires, the term "mine" includes every shaft in the course of being sunk, and every adit, level and inclined plane in the course of being driven for commencing or opening any mine, or for searching for or proving minerals, and all the shafts, levels, planes, works, machinery, tramways, and sidings, both below ground and above ground, in and adjacent to a mine, and any such shaft, level and inclined plane, and belonging to any mine to which this Act applies. Interpretation

The term "shaft" includes pit; "Shaft."

The term "plan" includes a map and section, and a correct copy or tracing of any original plan as so defined; "Plan."

The term "machinery" includes steam or other engines, boilers, furnaces, stampers, or other crushing apparatus, winding or pumping gear, chains, trucks, tramways, tackle, blocks, ropes, or tools, and shall include all appliances of whatsoever kind used in or about or in connection with the mine; "Machinery."

The term "owner," when used in relation to any mine, means any person or body corporate who is the immediate proprietor, or lessee, or occupier of any mine, or of any part thereof, and does not include a person or body corporate who merely receives a royalty, rent or fine from a mine, or is merely the "Owner."

proprietor of a mine subject to any lease, grant, or license for the working thereof, or is merely the owner of the soil and not interested in the minerals of the mines ;

‘ Agent.” The term “agent,” when used in relation to any mine, means any person having, on behalf of the owner, care or direction of any mine, or of any part thereof, and includes the words “Manager” and “Superintendent” ;

“Inspector.” The term “inspector” includes any inspector appointed under *The General Mining Act*, or any amendments thereto, and whether for a mining division or any part thereof or for the province.

PART I.

EMPLOYMENT OF WOMEN, YOUNG PERSONS AND CHILDREN.

Employment of women and children. 4. No boy under the age of fifteen years shall be employed in or allowed to be for the purpose of employment in any mine to which this Act applies below ground ; and no girl or woman shall be employed at mining work or allowed to be for the purpose of employment at mining work in or about any mine.

Hours of employment of boys. 5. A boy or male young person of the age of fifteen and under the age of seventeen years shall not be employed in or allowed to be for the purpose of employment in any mine to which this Act applies below ground for more than forty-eight hours in any one week, or more than eight hours in any one day or otherwise than in accordance with the regulations following: that is to say :

(1) The period of each employment shall be deemed to begin at the time of leaving the surface, and to end at the time of returning to the surface.

(2) A week shall mean the period between midnight on Sunday night and midnight on the succeeding Saturday night.

Register to be kept of boys, and male young persons and women employed. 6. The owner or agent of every mine to which this Act applies, shall keep in the office at the mine, or in the principal office of the mine belonging to the same owner in the district in which the mine is situated, a register, and shall cause to be entered in such register the name, age, residence and date of the first employment of all boys or of all male young persons of the age of fifteen and under the age of seventeen years, who are employed in the mine below ground, and shall produce such register to any inspector at the mine at all reasonable times when required by him, and allow him to inspect and copy the same. The immediate employer of every boy or male young

person of the age aforesaid, other than the owner or agent of the mine, before he causes such boy or male young person to be in any mine to which this Act applies below ground, shall report to the owner or agent of such mine, or some person appointed by such owner or agent, that he is about to employ him in such mine.

7. Where there is a shaft, inclined plane, or level in any mine to which this Act applies, whether for the purpose of an entrance to such mine or of a communication from one part to another part of such mine, and persons are taken up, down or along such shaft, plane or level by means of any engine, windlass or gin, driven or worked by steam or any mechanical power, or by an animal, or by manual labour, a person shall not be allowed to have charge of such engine, windlass or gin, or any part of the machinery, ropes, chains or tackle connected therewith, unless he is a male of at least twenty years of age. Where the engine, windlass or gin is worked by an animal, the person under whose direction the driver of the animal acts shall, for the purposes of this section, be deemed to be the person in charge of the engine, windlass or gin, but such driver shall not be under sixteen years of age.

Employment of young persons in connection with engines.

8.—(1) If any person contravenes or fails to comply with any provision of this Act with respect to the employment of women, girls, young persons or boys, or to the register of or report respecting boys and male young persons, or to the employment of persons about any engine, windlass or gin, he shall be guilty of an offence against this Act, and in case of any such contravention, or non-compliance by any person whomsoever in the case of any mine, the owner and agent of such mine shall each be guilty of an offence against this Act, unless he proves that he had taken all reasonable means by publishing and to the best of his power enforcing the provisions of this Act to prevent such contravention or non-compliance.

Penalty for employment of persons contrary to Act.

(2) If it appear that a boy or young person or a person employed about an engine, windlass or gin, was employed on the representation of his parent or guardian, that he was of that age at which his employment would not be in contravention of this Act, and under the belief in good faith that he was of that age, the owner or agent of the mine and the immediate employer shall be exempted from any penalty, and the parent or guardian shall, for such misrepresentation, be deemed guilty of an offence against this Act.

9. No wages shall be paid to any person employed in or about any mine to which this Act applies at or within any public house, beer shop, or place for the sale of any spirits, wine, beer, or other spirituous or fermented liquor, or other house of entertainment, or any office, garden, or place belonging or contiguous thereto, or occupied therewith.

Prohibition of payment of wages at public houses, etc.

Every person who contravenes or fails to comply with, or permits any person to contravene or fail to comply with, this section shall be guilty of an offence against this Act, and in the event of any such contravention or non-compliance in the case of any mine, by any person whomsoever, the owner and agent of such mine shall each be guilty of an offence against this Act, unless he prove that he has taken all reasonable means by publishing and to the best of his power enforcing the provisions of this section to prevent such contravention or non-compliance.

Returns by
owners and
agents of
mines.

10.—(1) From and after the commencement of this Act, the owner or agent of every mine to which this Act applies, shall on or before the first day of February in every year, send to the Minister of Agriculture a correct return, specifying with respect to such mine, for the year ending on the preceding 31st day of December, and also the class of mineral or ore of such mine, and the number of persons ordinarily employed in or about such mine, below ground and above ground, distinguishing those who are employed below ground and above ground, and distinguishing the different classes and ages of the persons so employed, whose hours of labor are regulated by this Act. The return shall be in such form as may be from time to time prescribed by the Minister of Agriculture who shall from time to time, on application, furnish forms for the purpose of such return. Every owner or agent of a mine who fails to comply with this section, or makes any return which is to his knowledge false in any particular, shall be guilty of an offence against this Act.

(2) The owner or agent of any mine may, in addition to the return hereinbefore required by this section, also embrace in such return the quantity in statute weight of the mineral dressed, and of the undressed mineral which has been sold, treated or used during that year, and the value or estimated value thereof.

Notice of acci-
dents in mines
to be sent to
inspector.

11. Where in or about any mine to which this Act applies whether above or below ground, either

- (1) Loss of life or any personal injury to any person employed in or about the mine, occurs by reason of any explosion of gas, powder, or of any steam boiler; or
- (2) Loss of life or any serious personal injury to any person employed in or about the mine, occurs by reason of any accident whatever, the owner or agent of the mine shall, within twenty-four hours next after the explosion or accident, send notice in writing of the explosion or accident and of the loss of life or personal injury occasioned thereby, to the Minister of Agriculture, and shall specify in such

notice the character of the explosion or accident, and the number of persons killed and injured respectively.

Where any personal injury, of which notice is required to be sent under this section, results in the death of the person injured, notice in writing of the death shall be sent to the inspector, within twenty-four hours after such death comes to the knowledge of the owner or agent. Every owner or agent who fails to act in compliance with this section, shall be guilty of an offence against this Act.

12. In any of the following cases, namely :

- (1) Where any working is commenced for the purpose of opening a new shaft for any mine to which this Act applies ;
- (2) Where a shaft of any mine to which this Act applies is abandoned, or the working thereof discontinued ;
- (3) Where the working of a shaft of any mine to which this Act applies is recommenced after an abandonment or discontinuance for a period exceeding two months ; or
- (4) Where any change occurs in the name of, or in the name of the owner or agent of, a mine to which this Act applies, or in the officers of any incorporated company which is the owner of a mine to which this Act applies ;

Notice of opening and abandonment of mine to be given to inspector.

The owner or agent of such mine shall give notice thereof to the inspector within two months after such commencement, abandonment, discontinuance, recommencement or change, and if such notice is not given, the owner or agent shall be guilty of an offence against this Act ; provided that—

- (1) This section shall apply only to any working or mine in which more than twelve persons are ordinarily employed below ground.

13. For the prevention of accidents, where any mine to which this Act applies is abandoned or the working thereof discontinued, at whatever time such abandonment or discontinuance occurred, the owner thereof, and every other person interested in the minerals of the mine, shall cause the top of the shaft and any side entrance from the surface, to be and to be kept securely fenced.

Fencing of abandoned mine.

Or shall cause a sign board to be strongly nailed to a post not less than eight feet high at the top of the shaft, and at any side entrance from the surface, on which there shall be painted in conspicuous letters in durable material the words "abandoned mining shaft."

Proviso.

Provided that—

- (1) Subject to any contract to the contrary, the owner of the mine shall, as between him and any other person interested in the minerals of the mine, be liable to carry into effect this section, and to pay any costs incurred by any other person interested in the minerals of the mine in carrying this section into effect ;
- (2) Where such abandonment or discontinuance has occurred in the case of a mine before the passing of this Act, this section shall apply only to such shaft or side entrance of the mine as is situate within fifty yards of any highway, road, footpath or place of public resort, or in open or unenclosed land, or not being situate as aforesaid, is required by an inspector in writing to be fenced, on the ground that it is especially dangerous ;

If any person fail to act in conformity with this section, he shall be guilty of an offence against this Act. Any shaft or side entrance which is not fenced, or in respect of which the said signboard is not nailed up and kept nailed up as aforesaid as required by this section, and is within fifty yards of any highway, road, footpath or place of public resort, or is in open or unenclosed land, or is required by an inspector as aforesaid to be fenced, shall be deemed to be a nuisance.

Inspector not
to be inter-
ested in mines.

14. No person shall be appointed or authorized to be qualified to act as an inspector who practices or acts or is a partner of any person who practices or acts as a mining agent, or who is employed by the owners of or is interested in any mine.

Powers of
inspectors.

15. An inspector under this Act shall have power to do all or any of the following things, namely :

- (1) To make such examination and enquiry as may be necessary to ascertain whether the provisions of this Act relating to matters above ground or below ground are complied with in the case of any mine to which this Act applies ;
- (2) To enter, inspect and examine any mine to which this Act applies, and every part thereof, at all reasonable times by day and night, but so as not to impede or obstruct the working of the said mine ;
- (3) To examine into and make enquiry respecting the state and condition of any mine to which this Act applies, or any part thereof, and the ventilation of the mine, and all matters and things connected with or relating to the safety of the persons employed in or about the mine, or any mine contiguous thereto, and to give notice to the owner or agent in writing

of any particulars in which he considers such mine or any part thereof or any matter, thing or practice to be dangerous or defective, and to require the same to be remedied within the period of time named in such notice, and unless the cause of danger be removed or such defect be remedied within the time named, the owner or agent shall be guilty of an offence against this Act ;

- (4) To exercise such other powers as may be necessary for carrying this Act into effect.

Every person who wilfully obstructs any inspector in the execution of his duty under this Act, and every owner and agent of a mine who refuses or neglects to furnish to the inspector the means necessary for making any entry, inspection, examination or enquiry under this Act in relation to such mine, shall be guilty of an offence against this Act.

16. Every inspector under this Act shall make an annual report of his proceedings during the preceding year to the Minister of Agriculture, which report shall be laid before the Legislative Assembly. The Minister of Agriculture may at any time direct an inspector to make a special report with respect to any accident in a mine to which this Act applies, which accident has caused loss of life or personal injury to any person, and in such case shall cause such report to be made public at such time and in such manner as he thinks expedient. Reports of inspector.

17. Until the appointment of a mining inspector or in the event of a vacancy in such office, any notice by this Act required to be given to such mining inspector shall be given to the Minister of Agriculture. Service of notices pending appointment of inspector.

Penalties.

18. Every person employed in or about a mine other than an owner or agent, who is guilty of any act or omission which in the case of an owner or agent would be an offence against this Act, shall be deemed to be guilty of an offence against this Act. Every person who is guilty of an offence against this Act shall be liable to a penalty not exceeding, if he is an owner or agent, fifty dollars, and if he is any other person ten dollars, for each offence ; and if an inspector has given written notice of any such offence, to a further penalty not exceeding five dollars for every day after such notice that such offence continues to be committed. Penalties.

19. Any complaint or information made or laid in pursuance of this Act shall be made or laid within three months from the time when the matter of such complaint or information respectively arose : Limitation of prosecutions and form of information.

- (1) The description of any offence under this Act in the words of this Act shall be sufficient in law ;

- (2) Any exception, exemption, proviso, excuse or qualification, whether it does or does not accompany the description of the offence in this Act, may be proved by the defendant, but need not be specified or negatived in the information, and if so specified or negatived, no proof in relation to the matter so specified or negatived shall be required on the part of the informant.

Prosecution
for offences.

20. No prosecution shall be instituted against the owner or agent of a mine to which this Act applies for any offence under this Act, except by an inspector, the county or district attorney, or with the consent in writing of the Attorney-General; and in the case of any offence of which the owner or agent of a mine is not guilty, if he proves that he had taken all reasonable means to prevent the commission thereof, an inspector shall not institute any prosecution against such owner or agent, if satisfied that he had taken such reasonable means as aforesaid.

Prosecution
under other
Acts.

21.—(1) Nothing in this Act shall prevent any person from being indicted or liable under any other Act or otherwise to any other or higher penalty or punishment than is provided for any offence by this Act, so that no person be punished twice for the same offence.

(2) If the court before whom a person is charged with an offence under this Act think that proceedings ought to be taken against such person for such offence under any other Act or otherwise, the Court may adjourn the case to enable such proceedings to be taken.

Manner in
which prose-
cutions may
take place.

22. All prosecutions for the punishment of any offence under this Act may take place before any two or more of Her Majesty's Justices of the Peace having jurisdiction in the county or district in which the offence is committed, or before a police or stipendiary magistrate, and the forms appended to an Act of the Parliament of Canada entitled *An Act Respecting summary Proceedings before a Justice of the Peace*, or forms to the like effect or similar thereto shall in all cases be sufficient.

RULES.

General Rules.

General rules.

23. The following general rules shall, so far as may be reasonably practicable, be observed in every mine to which this Act applies.

Ventilation.

1. An adequate amount of ventilation shall be constantly produced in every mine to such an extent that the shafts, winzes, sumps, levels, underground stables, and working places of such mine, and the travelling roads to and from such working places, shall be in a fit state for working and passing therein.

2. Gunpowder, dualine, dynamite or other explosive or inflammable substance shall only be used underground in the mine as follows: Gunpowder and blasting.

- (a) It shall not be stored in the mine in any quantity exceeding what would be required for use during six working days.
- (b) It shall not be taken for use into the workings of the mine except in a securely covered case or canister, containing not more than eight pounds.
- (c) A workman shall not have in use at one time in any one place more than one of such cases or canisters.
- (d) In charging holes for blasting, except in mines excepted from the operation of this section by the Minister of Agriculture, an iron or steel pricker shall not be used, and a person shall not have in his possession in the mine underground any iron or steel pricker, and an iron or steel tamping rod or stemmer shall not be used for ramming either the wadding or the first part of the tamping or stemming on the powder.
- (e) A charge of powder which has missed fire shall not be unrammed.
- (f) A charge which has missed fire may be drawn by a copper pricker, but in no case shall any iron or steel tool be used for the purpose of drawing or drilling out such charge.

3. Every underground plane on which persons travel, which is self-acting, or worked by an engine, windlass or gin, shall be provided (if exceeding thirty yards in length) with some proper means of signalling between the stopping places and the ends of the plane, and shall be provided in every case at intervals of not more than twenty yards, with sufficient man-holes for places of refuge. Man-holes in self-acting or engine planes.

4. Every road on which persons travel underground where the produce of the mine in transit exceeds ten tons in any one hour over any part thereof, and where the load is drawn by a horse or other animal, shall be provided, at intervals of not more than one hundred yards, with sufficient spaces for places of refuge each of which spaces shall be of sufficient length, and of at least three feet in width between the wagons running on the tramroad and the side of the road; and the Minister of Agriculture may, if he sees fit, require the inspector to certify whether the produce of the mine in transit on the road aforesaid does or does not ordinarily exceed the weight as aforesaid. Spaces in horse roads.

5. Every man-hole and space for a place of refuge shall be constantly kept clear, and no person shall place anything in a man-hole or such space so as to prevent access thereto. Keeping spaces clear.

Fencing of old shafts.

6. The top of every shaft which was opened before the commencement of the actual working for the time being of the mine and has not been used during such actual working shall, unless the inspector otherwise permits, be securely fenced, and the top of every other shaft which for the time being is out of use, or used only as an air shaft, shall be securely fenced, or in either case due notice shall be given by nailing up a sign-board as in this Act is hereinbefore provided, as the inspector shall direct.

Fencing of entrances to shafts.

7. The top and all entrances between the top and bottom of every working or pumping shaft shall be properly fenced, but this shall not be taken to forbid the temporary removal of the fence for the purpose of repairs or other operations, if proper precautions are used.

Securing of shafts.

8. Where the natural strata are not safe, every working or pumping shaft, adit, tunnel, drive, roadway or other workings, shall be securely cased, lined or timbered, or otherwise made secure.

Safety from water.

9. Every mine shall be provided with proper and sufficient machinery and appliances for keeping such mine free from water, the accumulation or flowing of which might injuriously effect any other mine.

Division of Shaft.

10. Where one portion of a shaft is used for the ascent and descent of persons by ladders or a man engine, and another portion of the same shaft is used for raising the material gotten in the mine, the first mentioned portion shall be cased or otherwise securely fenced off from the last mentioned portion.

Signalling.

11. Every working shaft in which persons are raised shall, if exceeding fifty yards in depth, and not exempted in writing by the inspector, be provided with guides and some proper means of communicating distinct and definite signals from the bottom of the shaft and from every entrance for the time being in work between the surface and the bottom of the shaft to the surface, and from the surface to the bottom of the shaft and to every entrance for the time being in work between the surface and the bottom of the shaft.

Cover overhead.

12. A sufficient cover overhead shall be used when lowering or raising persons in every working shaft, except where it is worked by a windlass, or where the person is employed about the pump or some work of repair in the shaft, or where a written exemption is given by the inspector.

Chains.

13. A single linked chain shall not be used for lowering or raising persons in any working shaft or plane except for the short coupling chain attached to the cage or load.

Slipping of rope on drum.

14. There shall be on the drum of every machine used for lowering or raising persons such flanges or horns, and also, if the drum is conical such other appliances as may be sufficient to prevent the rope from slipping.

15. There shall be attached to every machine worked by steam, water or other mechanical power, and used for lowering or raising persons, an adequate brake, and also a proper indicator (in addition to any mark on the rope) which shows to the person who works the machine the position of the cage or load in the shaft. Brake.

16. A proper footway or ladder, inclined at the most convenient angle with the space in which the ladder is fixed allows, shall be provided in every working shaft where no machinery is used for raising or lowering persons; and every such ladder shall have substantial platforms at intervals of not more than forty feet, and no such ladder shall be fixed for permanent use in a vertical or overhanging position unless in shafts used exclusively for pumping. In every mine in which vertical or overhanging ladders shall be in use in the shaft at the time when these rules shall be applied to it. they may be retained provided securely fixed platforms be constructed at intervals of not more than 30 feet from each other, and such ladders have sufficient spaces for footholds of not less than six inches. Inclination of ladders.

17. If more than twelve persons are ordinarily employed in the mine below ground, sufficient accommodation shall be provided above ground near the principal entrances of the mine, and not in the engine house or boiler house, for enabling the persons employed in the mine to conveniently dry and change their clothes. Dressing room.

18. Every fly-wheel and all exposed and dangerous parts of the machinery used in or about the mine shall be and be kept securely fenced. Fencing machinery.

19. Every steam boiler shall be provided with a proper steam gauge and water gauge, to show respectively the pressure of steam and the height of water in the boiler, and with a proper safety valve. Gauges to boilers and safety-valves.

20. No person shall wilfully damage, or without proper authority remove or render useless, any fencing, casing, lining, guide, means of signalling, signal, cover, chain, flange, horn, brake, indicator, ladder, platform, steam gauge, water gauge, safety-valve or other appliance or thing provided in any mine in compliance with this Act. Every person who contravenes or does not comply with any of the general rules in this section shall be guilty of an offence against this Act, and in the event of any contravention of, or non-compliance with any of the said general rules in the case of any mine to which this Act applies, by any person whomsoever: being proved, the owner and agent of such mine shall each be guilty of an offence against this Act, unless he proves that he had taken all reasonable means by publishing and to the best of his power enforcing the said rules as regulations for the working of the mine to prevent such contravention or non-compliance. Wilful damage.

Plans to be
produced on
inspection of
mine.

24. On the occasion of any examination or inspection of a mine the owner shall, if required so to do, produce to the inspector or any other person duly authorized by the Minister of Agriculture, an accurate plan of the workings thereof; every such plan as aforesaid shall show the workings of the mine up to within six months of the time of the inspection, and the owner shall, if required by such inspector or other authorized person, cause to be marked on such plan the progress of the workings of the mine up to the time of such inspection, and shall also permit the inspector to take a copy or tracing thereof.

Punishment
for defacing
notices.

25. Every person who pulls down, injures or defaces any rules, notice or abstract posted up by the owners or agent shall be guilty of an offence against this Act

PART III.

**ACTS AND REGULATIONS RESPECTING CROWN
TIMBER.**

REVISED STATUTES OF ONTARIO, 1887.

CHAPTER 28.

An Act respecting Timber on Public Lands.

LICENSES TO CUT TIMBER ON PUBLIC LANDS, SS. 1-2.	ROAD ALLOWANCE, s. 4.
GOVERNMENT ROAD ALLOWANCES, TO BE DEEMED UNGRANTED LANDS, s. 3.	TOWNSHIPS ENTITLED TO PERCENTAGE OF TIMBER DUES, SS. 6-9.
BY-LAWS OF MUNICIPALITIES IN RELATION TO TIMBER ON ROAD ALLOWANCES NOT TO PREVAIL AGAINST LICENSE, s. 5.	OBLIGATIONS OF LICENSEES, SS. 10-13.
RIGHTS OF LICENSEE TO TIMBER ON	LIABILITY OF PERSONS CUTTING TIMBER WITHOUT A LICENSE, SS. 14-16.
	SEIZURE OF TIMBER BY THE CROWN, SS. 17-21.

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario enacts as follows :—

LICENSES TO CUT TIMBER ON PUBLIC LANDS.

1.—(1) The Commissioner of Crown Lands, or any officer or agent under him authorized to that effect, may grant licenses to cut timber on the ungranted lands of the Crown, at such rates, and subject to such conditions, regulations and restrictions as may from time to time be established by the Lieutenant-Governor in Council, and of which notice may be given in the *Ontario Gazette*.

Commissioner of Crown Lands may grant licenses to cut timber on Public Lands.

(2) No license shall be so granted for a longer period than twelve months from the date thereof; and if, in consequence of incorrectness of survey, or other error, or cause whatsoever, a license is found to comprise lands included in a license of a prior date, the license last granted shall be void in so far as it interferes with the one previously issued, and the holder or proprietor of the license so rendered void shall have no claim upon the Government for indemnity or compensation by reason of such avoidance. R. S. O. 1877, c. 26, s. 1.

Period of license.
Conflicting licenses.

2. The licenses shall describe the lands upon which the timber may be cut, and shall confer for the time being on the nominee the right to take and keep exclusive possession of the lands so described, subject to such regulations and restrictions as may be established :—And the licenses shall vest in the holders thereof all rights of property whatsoever in all trees, timber and lumber cut within the limits of the license during the term thereof, whether the trees, timber and lumber are cut by authority of the holder of the license, or by any other per-

Operation of license.

son, with or without his consent;—And the licenses shall entitle the holders thereof to seize in revendication, or otherwise, such trees, timber or lumber where the same are found in the possession of any unauthorized person, and also to institute any action against any wrongful possessor or trespassers, and to prosecute all trespassers and other offenders to punishment and to recover damages if any:—And all proceedings pending at the expiration of any license may be continued to final termination as if the license had not expired. R. S. O. 1877, c. 26, s. 2.

Government
road allow-
ances to be
deemed un-
granted lands

3. Every Government road allowance included in any Crown timber license, heretofore granted, or which may hereafter be granted under section 1 of this Act, shall be deemed and taken to be and to have been ungranted lands of the Crown, within the meaning of said section, and liable as such to be included in the license. R. S. O. 1877, c. 26, s. 3.

Rights of
licensee.

4. The licensee or nominee named in any license shall be deemed and taken to have, and to have had, all the rights in respect of every such road allowance, and the trees, timber and lumber thereon, or cut thereon, as were, or by section 2 of this Act, may be conferred upon him in respect of any other Crown lands embraced in such license, and the trees, timber and lumber thereon, or cut thereon, except that he shall not be entitled to take or keep exclusive possession of such road allowance. R. S. O. 1877, c. 26, s. 4.

By-laws not to
prevail against
license.

5. No by-law passed, or to be passed by any Municipal Council for preserving, selling, or otherwise appropriating or disposing of the timber or trees, or any part thereof, on a Government road allowance included in any license, shall be deemed or taken to have had or have any force or effect against such license. R. S. O. 1877, c. 26, s. 5.

Township
Councils en-
titled to per-
centage of
timber dues.

6. In case the council of any township, organized as a separate municipality, or the council of any united townships, have passed, or hereafter pass, a by-law for preserving or selling the timber or trees on the Government road allowances within such township, or united townships, and included in any license, the corporation of such township or united townships shall be entitled to be paid out of the consolidated revenue fund of this Province a sum equal to two per centum of the dues received by Her Majesty for or in respect of the timber or saw-logs which, during the existence of the by-law, were cut within the township, or united townships, under the authority of the license; but no corporation shall be entitled to such percentage of the dues received for timber or saw-logs cut during the times or seasons when timber, or trees on such road allowances were cut or removed, for which cutting or removal the corporation had, before the 15th day of February, 1871, obtained a verdict against such licensee or nominee. 44 V. c. 2, s. 1.

Proviso.

7. No Municipal Corporation shall be entitled to such payment as aforesaid, unless a certified copy of the by-law passed or to be passed as aforesaid, accompanied by an affidavit of the Clerk or Reeve of the Corporation, verifying the copy, and the date of the passing of the by-law, is filed in the Department of Crown Lands at Toronto within six months from the passing of the by-law; and the affidavit may be made or taken before any person or officer who, under sections 42 or 43 of *The Public Lands Act*, is authorized to take the affidavits in those sections mentioned. R. S. O. 1877, c. 26, s. 7.

Terms on which Councils may obtain the percentage.

Rev. Stat. c. 24, ss. 42, 43.

8. All moneys to be paid, as aforesaid, to any municipal corporation shall be expended in the improvement of the highways situate within the Township or within the senior or junior Township in respect of which such moneys were paid. 44 V. c. 2, s. 2.

Councils to expend percentage on highways.

9. The percentage to which the junior township or townships of such united townships may be entitled, shall only be in respect of the dues received upon timber or trees which shall be cut after the 30th day of April, 1881. 44 V. c. 2, s. 3.

Time from which junior townships entitled to percentage of dues.

[See Cap. 25, ss. 13-15, as to the right of the Crown, to grant Timber Licenses on Free Grant Lands.]

OBLIGATIONS OF PERSONS OBTAINING LICENSES.

10. Every person obtaining a license shall, at the expiration thereof, make to the officer or agent granting the same, or to the Commissioner of Crown Lands, a return of the number and kinds of trees cut, and of the quantity and description of saw-logs, or of the number and description of sticks of square timber manufactured and carried away under the license; and the statement shall be sworn to by the holder of the license, or his agent, or by his foreman, before a Justice of the Peace; and any person refusing or neglecting to furnish such statement, or evading or attempting to evade any regulation made by Order in Council, shall be held to have cut without authority, and the timber made shall be dealt with accordingly. R. S. O. 1877, c. 25, s. 9.

Return to be made by persons obtaining licenses.

11.—(1) All timber cut under licenses shall be liable for the payment of the Crown dues thereon, so long as and wheresoever the timber or any part of it may be found in Ontario, whether in the original logs or manufactured into deals, boards or other stuff; and all officers or agents entrusted with the collection of such dues may follow all timber and seize and detain the same wherever it is found until the dues are paid or secured.

Timber liable to payment of dues may be followed until dues are paid.

(2) Nothing in this Act contained shall be construed to repeal the provisions of section 4 of chapter 23 of the Consolidated Statutes of Canada, as regards timber removed into the Province of Quebec. R. S. O. 1877, c. 26, s. 10.

Timber removed into Quebec.

The giving of bonds or notes not to affect the lien on the timber.

12. Bonds or promissory notes taken for the Crown dues either before or after the cutting of the timber, as collateral security, or to facilitate collection, shall not in any way affect the lien of the Crown on the timber, but the lien shall subsist until the dues are actually discharged. R. S.O. 1877, c. 26, s. 11.

Sale of timber seized for non-payment of dues.

13. If timber so seized and detained for non-payment of Crown dues remains more than two months in the custody of the agent or person appointed to guard the same, without the dues and expenses being paid, the Commissioner of Crown Lands, with the previous special sanction of the Lieutenant-Governor in Council, may order a sale of the timber to be made after sufficient notice; and the balance of the proceeds of the sale, after retaining the amount of dues and costs incurred, shall be handed over to the owner or claimant of the timber. R. S. O. 1877, c. 26, s. 12.

LIABILITY OF PERSONS CUTTING WITHOUT A LICENSE.

Penalty on persons cutting timber without license, etc.

14.—(1) If any person without authority cuts or employs or induces any other person to cut, or assists in cutting timber of any kind on the Crown, Clergy, School or other Public Lands, or removes or carries away, or employs or induces or assists any other person to remove or carry away, merchantable timber of any kind, so cut from the Public Lands aforesaid, he shall not acquire any right to the timber so cut, or any claim to any remuneration for cutting, preparing the same for market, or conveying the same to or towards market.

If the timber has been removed, etc.

(2) When the timber or saw logs made has or have been removed by any person out of the reach of the officers of the Crown Lands Department, or it is otherwise found impossible to seize the same, such person shall in addition to the loss of his labour and disbursements, forfeit a sum of \$3 for each tree (rafting stuff excepted) which he is proved to have cut or caused to be cut or carried away.

By whom penalty recoverable.

(3) Such sum shall be recoverable with costs, at the suit and in the name of the Commissioner of Crown Lands, or resident agent, in any Court having jurisdiction in civil matters to the amount of the penalty.

Burden of proof.

(4) In such cases it shall be incumbent on the party charged to prove his authority to cut; and the averment of the party seizing or prosecuting that he is duly employed, under the authority of this Act, shall be sufficient proof thereof, unless the defendant proves the contrary. R. S. O. 1877, c. 26, s. 13.

Timber alleged to be unlawfully cut may be seized on a sufficient affidavit, etc.

15. Where satisfactory information, supported by affidavit made before a Justice of the Peace or before any other competent party, is received by the Commissioner of Crown Lands, or other officer or agent of the Crown Lands Department, that any timber or quantity of timber has been cut without authority on Crown, Clergy, School or other Public Lands,

and describing where the timber can be found, the Commissioner, officer or agent, or any one of them, may seize or cause to be seized in Her Majesty's name, the timber so reported to be cut without authority, wherever it is found, and place the same under proper custody, until a decision can be had in the matter from competent authority. R. S. O. 1877, c. 26, s. 14.

16. Where the timber so reported to have been cut without authority on the Public Lands, has been made up with other timber into a crib, dam or raft, or in any other manner has been so mixed up at the mills or elsewhere, as to render it impossible or very difficult to distinguish the timber so cut on Public Lands without license from other timber with which it is mixed up, the whole of the timber so mixed shall be held to have been cut without authority on Public Lands, and shall be liable to seizure and forfeiture accordingly, until satisfactorily separated by the holder. R. S. O. 1877, c. 26, s. 15.

As to timber so cut and mixed up with other timber.

SEIZURE OF TIMBER, &C.

17. Any officer or person seizing timber, in the discharge of his duty under this Act, may in the name of the Crown call in any assistance necessary for securing and protecting the timber so seized. R. S. O. 1877, c. 26, s. 16.

Seizing officer may command assistance.

18. Whenever timber is seized for non-payment of Crown dues, or for any other cause of forfeiture, or any prosecution is brought for any penalty or forfeiture under this Act, and a question arises whether the said dues have been paid on the timber, or whether the timber was cut on other than the Public Lands aforesaid, the burden of proving payment, or on what land the timber was cut, shall lie on the owner or claimant of the timber and not on the officer, who seizes the same, or the party bringing the prosecution. R. S. O. 1877, c. 26, s. 17.

Burden of proof that dues have been paid.

19. All timber seized under this Act shall be deemed to be condemned, unless the person from whom it was seized, or the owner thereof, within one month from the day of the seizure, gives notice to the seizing officer or nearest officer or agent of the Crown Lands Office, that he claims or intends to claim the same; failing notice, the officer or agent seizing shall report the circumstances to the Commissioner of Crown Lands, who may order the sale of the said timber, by the officer or agent, after a notice on the spot of at least thirty days. R. S. O. 1877, c. 26, s. 18.

Timber seized to be condemned, if not claimed within one month.

20.—(1) Every Judge having competent jurisdiction, may whenever he deems it proper, try and determine such seizures, and may order the delivery of the timber to the alleged owner, on receiving security by bond with two good and sufficient sureties to be first approved by the agent, to pay double the value in case of condemnation.

Judge may order timber to be delivered on security being given.

(2) The bond shall be taken in the name of the Commissioner of Crown Lands, to Her Majesty's use, and shall be delivered up to and kept by the Commissioner.

(3) If the seized timber is condemned, the value thereof shall be forthwith paid to the Commissioner of Crown Lands, or the agent, and the bond cancelled, otherwise the penalty of such bond shall be enforced and recovered. R. S. O. 1877, c. 26, s. 19.

Forfeiture of
timber in case
of fraud.

21. Every person availing himself of any false statement or oath to evade the payment of Crown dues, shall forfeit the timber on which dues are attempted to be evaded. R. S. O. 1877, c. 26, s. 20.

ONTARIO STATUTES, 1890.

CHAPTER 8.

An Act respecting Timber Licenses affecting Registered Land.

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:—

Effect of
registration of
land under
Rev. Stat.
c. 116 upon
timber
licenses.

1. Where a license under the Revised Statute of 1877 respecting the sale and management of timber on public lands, or under the Revised Statute of 1887, respecting Timber on Public Lands, was or shall be granted, and the land is registered under *The Land Titles Act*, the same shall be deemed to have been, and to be subject to the rights of the licensee for the current license year, or of his assignee, and to the rights of Her Majesty in the pine trees under *The Free Grants and Homesteads Act*, in the Revised Statutes of 1877, or in the Revised Statutes of 1887, without the fact of such land being so subject being expressed in the entry in the register, or in the certificate of ownership.

REVISED STATUTES, 1887.

CHAPTER 120.

An Act for protecting the Public interest in Rivers,
Streams and Creeks.

RIGHT TO FLOAT TIMBER DOWN STREAMS, ss. 1, 11, 12.	TOLLS FOR USE OF IMPROVEMENTS, s. 11.
INJURING DAMS, s. 2.	Judge or Magistrate to fix tolls, s. 13.
CONDITIONS AS TO FLOATING TIMBER DOWN CERTAIN RIVERS, s. 3.	Powers of Judge, s. 14.
PENALTIES :	Appeal, ss. 15-17.
Obstructing rivers, s. 4.	Lien for tolls, s. 19.
How recovered, s. 8.	APPLICATION OF ACT, ss. 18, 20.
How appropriated, s. 9.	RIGHT TO GO ON RIVER BANKS, s. 21.
ACT NOT TO APPLY IN CERTAIN CASES, ss. 5-7.	PERSON ENTITLED TO TOLLS MAY MAKE RULES REGULATING TRANSMIS- SION OF TIMBER, s. 22.
ASSESSED DAMAGES FOR INJURY TO PRIVATE PROPERTY — HOW AP- PLIED, s. 10.	RIGHT TO INJUNCTION RESTRICTED, ss. 23, 24.

HER MAJESTY, by and with the advice and consent of
the Legislative Assembly of the Province of Ontario,
enacts as follows:—

1. All persons shall, subject to the provisions in this Act contained, have, and are hereby declared always to have had, during the spring, summer and autumn freshets, the right to, and may float and transmit saw-logs and all other timber of every kind, and all rafts and crafts, down all rivers, creeks and streams; and no person shall by felling trees or placing any other obstruction in or across any such river, creek or stream, prevent the passage thereof; and in case it may be necessary to remove any obstruction from such river, creek or stream, or construct any apron, dam, slide, gate-lock, boom, or other work therein or thereon, necessary to facilitate the floating and transmitting such saw-logs and other timber, rafts or crafts, down the same, then it shall be lawful for the person requiring so to float and transmit such saw-logs and other timber, rafts and crafts, and it is hereby declared always to have been lawful to remove such obstruction, and to construct such apron, dam, slide, gate-lock, boom or other work necessary for the purposes aforesaid, doing no unnecessary damage to the said river, creek or stream, or to the banks thereof. R. S. O. 1877, c. 115, s. 1; 47 V. c. 17, s. 1.

All persons
entitled to use
rivers for
floating down
timber and
saw-logs.

Persons using streams not to injure dams, etc.

2. In case there is a convenient apron, slide, gate, lock, or opening in any such dam or other structure made for the passage of saw logs and other timber, rafts and crafts authorized to be floated down such stream as aforesaid, no person using any such stream in manner and for the purposes aforesaid, shall alter, injure or destroy any such dam or other useful erection in or upon the bed of or across the stream, or do any unnecessary damage thereto or on the banks thereof. R. S. O. 1877, c. 115, s. 2.

Conditions on which timber may be cut on the banks of certain rivers and floated thereon.

3. Except in the case of round or squared timber, or of trees, masts, staves, deals, boards or other sawed or manufactured lumber or saw-logs, prepared for transportation to a market, every person and every employer of such person, who cuts and fells any trees into the Grand River, the River Thames, River Nith, River Speed, Otter Creek, the River Credit, the River Otonabee from Sturgeon Lake to Rice Lake, the River Scugog, the River Trent from Rice Lake to the Bay of Quinte, Crow River, the Rivers Gananoque, Rideau, Petite Nation, Tay, Mississippi, Bonnechere, Madawaska and Goodwood in Ontario, or upon such parts of the banks thereof as are usually overflowed in the autumn or spring of the year by the rising of the water of the said rivers or creek, and who does not lop off the branches of such trees and cut up the trunks thereof into lengths of not more than eighteen feet, before they are allowed to be floated or cast into the said rivers or streams shall for every such offence forfeit and pay a penalty not exceeding ten dollars. R. S. O. 1877, c. 115, s. 3.

Penalty on persons obstructing rivers and rivulets.

4. Subject to any jurisdiction of the Dominion of Canada in this behalf and to any Acts passed in the exercise of such jurisdiction—in case a person throws, or in case an owner or occupier of a mill suffers or permits to be thrown, into any river, rivulet or water-course, excepting those hereinafter mentioned, slabs, bark, waste stuff or other refuse of any saw-mill (except saw-dust), or stumps, roots, shrubs, tan-bark or waste wood, or leached ashes; or in case a person fells, or causes to be felled, in or across such river, rivulet or water-course, timber or growing or standing trees, and allows the same to remain in or across such river, rivulet or water-course, he shall incur a penalty not exceeding \$20 and not less than twenty cents for each day during which the obstruction remains in, over, or across such river, rivulet or water-course, over and above all damages arising therefrom. R. S. O. 1877, c. 115, s. 4.

Act not to extend to dams, weirs or trees used as bridges.

5. This Act shall not apply to a dam, weir or bridge erected in or over such river, rivulet or water-course, or to any thing done *bona fide* in or for erecting the same, or to any tree cut down or felled across such river, rivulet or water-course, for the purpose of being used as a bridge from one side

thereof to the other; provided such tree does not impede the flow of water or the passing of rafts. R. S. O. 1877, c. 115, s. 5.

6. This Act shall not extend to the River St. Lawrence, nor to the River Ottawa, nor to any river, or rivulet wherein salmon, pickerel, black bass or perch, do not abound. R. S. O. 1877, c. 115, s. 6. Exception as to certain rivers.

7. No such obstruction happening without the wilful default of any party, or in the *bona fide* exercise of his rights, shall subject him to any fine or forfeiture unless upon default to remove the obstruction after notice and reasonable time afforded for that purpose. R. S. O. 1877, c. 115, s. 7. As to obstructions not wilful.

8. All fines, penalties, forfeitures and damages under this Act, when not together exceeding \$20, may respectively, upon the oath of one credible witness, be recovered with costs, in a summary way in the manner provided by *The Act respecting Summary Convictions before Justices of the Peace and Appeals to General Sessions*, before any one or more of the Justices of the Peace for the county in which the offence has been committed, and unless the conviction is appealed from, if the fine or penalty and damages (as the case may be), together with the costs, are not paid at the time stated in the conviction, the convicting Justice or Justices, or one of them, when more than one, shall issue his or their warrant of distress to levy the same out of the goods and chattels of the offender; and in case there are not sufficient goods and chattels found to satisfy the same, and in case the offender does not otherwise satisfy the amount within three days after conviction, then such Justice or Justices (as the case may be) shall by warrant under hand and seal commit the offender to the common gaol of the county in which he has been convicted, for the term of ten days in case the conviction is under section 3 of this Act, or thirty days in case the conviction is under section 4 of this Act, unless the fine, penalty or forfeiture and damages (as the case may be), and costs are sooner paid. R. S. O. 1877, c. 115, s. 8. How fines to be recovered. Rev. Stat. c. 74.

9. Of pecuniary penalties levied under this Act, one-third shall go to the informer, and the other two-thirds shall be paid to the treasurer of the municipality in which the offence was committed, and shall be expended in improving the public highways therein. R. S. O. 1877, c. 115, s. 9. Appropriation of penalties.

10. In cases of damages to private property arising out of a violation of this Act, such damages may, at the request of the party aggrieved, be assessed by the convicting Justice or Justices, and included in the conviction, when such damages, together with the fine or penalty imposed, do not together exceed \$20; and in case damages are assessed the same shall be Assessed damages how to be applied.

paid to the party aggrieved, except in cases where he has been examined in proof of the offence, in which case the same shall be applied to the improvement of the public highways in the municipality as above provided. R. S. O. 1877, c. 115, s. 10.

Right to use
rivers on which
improvements
have been
made for the
purpose of
floating down
timber.

11. In case any person shall construct in or upon such river, creek or stream, any apron, dam, slide, gate, lock, boom or other work necessary to facilitate the floating or transmission of saw-logs or other timber, rafts or crafts down such river, creek or stream, which was not navigable or floatable before the improvements were made, or shall blast rocks or remove shoals or other impediments, or otherwise improve the floatability of the river, creek or stream, such person shall not have the exclusive right to the use of the river, creek, or stream, or to the constructions and improvements; but all persons shall have during the spring, summer and autumn freshets, the right to float and transmit saw-logs and other timber, rafts and crafts, down such rivers, creeks or streams, and through and over the constructions and improvements, doing no unnecessary damage to the constructions and improvements, or to the banks of the said rivers, creeks or streams, subject to the payment to the person who has made the constructions and improvements, of reasonable tolls. 47 V. c. 17, s. 2.

Secs. 1 and 11
to apply
whether
land patented
or not.

12. Sections 1 and 11 of this Act and all the rights therein given, and all the provisions therein made and contained, shall extend and apply to all rivers, creeks and streams mentioned in section 1 of this Act, and to all constructions and improvements made therein or thereon, whether the bed of the river, creek or stream, or the land through which the same runs, has been granted by the Crown or not, and if granted by the Crown shall be binding upon the grantees, their heirs, executors, administrators and assigns. 47 V. c. 17, s. 3.

Judge of
County Court
or stipendiary
magistrate
may fix tolls

13. The Judge of the County Court of the county or Stipendiary Magistrate of the judicial district, as the case may be, in which the constructions and improvements are situated shall, upon application of the owner thereof, or of any person who may desire to use the same, fix the amounts which any person entitled to tolls under this Act shall be at liberty to charge, and may from time to time vary such amounts; and the Judge or Stipendiary Magistrate in fixing the tolls shall have regard to and take into consideration the original cost of the construction and improvements, the amount required to maintain the same and to cover interest upon the original cost, as well as such other matters as under all the circumstances may seem just and equitable. 47 V. c. 17, s. 4.

Compelling
attendance of
witnesses.

14. The Judge or Stipendiary Magistrate shall have the same and like powers as to compelling the attendance and examination of witnesses, the production of documents and other-

wise, as are possessed by him, or by a County Court, in any cause, action, matter, or other proceeding, carried on or pending in a County Court. 47 V. c. 17, s. 5.

15. In case a party interested is dissatisfied with the order Appeal or judgment of the Judge or Stipendiary Magistrate, he may within fifteen days from the date thereof appeal from the order or judgment to a Judge of the Court of Appeal, and the Judge to whom the appeal is made shall determine the time within which the appeal shall be set down to be heard, the security to be given by the appellant, and the persons upon whom notice of the appeal shall be served, the manner of service, and all such other matters as he may deem necessary for the most speedy and least expensive determination of the matter of the appeal. 47 V. c. 17, s. 6.

16. If the appeal is not set down to be heard within the time limited for that purpose, or if the other conditions imposed are not complied with, the appeal shall be deemed to have been abandoned. 47 V. c. 17, s. 7.

When appeal to be deemed abandoned.

17. The costs of the appeal shall be in the discretion of the Judge to whom the appeal is had; and the practice and proceedings upon the appeal shall, except so far as may be by the Judge to whom the appeal is made otherwise provided, be similar to the practice and proceedings upon appeals from County Courts. 47 V. c. 17, s. 8.

Costs of appeal and practice and procedure.

18. The foregoing provisions of this Act shall apply to all such constructions and improvements as may hitherto have been made, as well as to such as may be in course of construction, or shall hereafter be constructed. 47 V. c. 17, s. 9.

Provisions of Act to apply to all constructions now or hereafter made.

19. Every person entitled to tolls under this Act shall have a lien upon the saw-logs or other timber passing through or over such constructions or improvements for the amount of the tolls, such lien to rank next after the lien (if any) which the Crown has for dues in respect to such logs or timber, and if the tolls are not paid, any Justice of the Peace having jurisdiction within or adjoining the locality in which the constructions or improvements are, shall, upon the oath of the owner of the constructions or improvements, or upon the oath of his agent, that the just tolls have not been paid, issue a warrant for the seizure of such logs or timber, or so much thereof as will be sufficient to satisfy the tolls, which warrant shall be directed to any constable, or any person sworn in as a special constable for that purpose, at the discretion of the magistrate, and shall authorize the person to whom it is directed, if the tolls are not paid within fourteen days from the date thereof, to sell subject to the lien of the Crown (if any), for dues, the said logs or timber, and out of the proceeds to pay such tolls, together with the cost of the warrant and sale, rendering the

Persons making improvements to have lien for tolls.

Proviso.

surplus on demand to the owner: Provided always, that the authority to issue such warrant by such Justice of the Peace shall not exist after the expiration of one month from the time of the passage of the logs or timber through or over any of such constructions or improvements. 47 V. c. 17, s. 10.

Rights of companies formed under Rev. Stat. c. 160, not affected.

Rev. Stat. c. 118.

20. Nothing in this Act contained shall be construed as interfering with the powers or rights of any company formed under *The Act respecting Joint Stock Companies for the construction of works to facilitate the transmission of Timber down Rivers and Streams*, or with mill-dams, or the right to erect and maintain mill-dams on streams; and *The Act respecting Mills and Mill-dams* and any other law conferring rights in mill-dams shall remain the same as if this Act had not been passed. 47 V. c. 17, s. 11.

All persons driving logs etc., to have the right to go on river banks.

21. All persons driving saw-logs or other timber, rafts or crafts, down any such river, creek or stream shall have the right to go along the banks of such river, creek or stream, and to assist the passage of the timber over the same by all means usual amongst lumbermen, doing no unnecessary damage to the banks of the river, creek or stream. 47 V. c. 17, s. 12.

Person entitled to tolls may make rules regulating transmission of timber.

22. Every person entitled to tolls under this Act may make rules and regulations for the purpose of regulating the safe and orderly transmission of saw-logs, timber, rafts and crafts over or through such constructions or improvements; but no such rules or regulations shall have any force or effect until approved of by the Lieutenant-Governor in Council, and the Lieutenant-Governor in Council may revoke and cancel such rules and regulations so made and approved, and from time to time approve of new rules and regulations which the person so entitled to tolls as aforesaid, shall have the power to make. 47 V. c. 17, s. 13.

Right to injunction against owners of mills on the Ottawa restricted.

23.—(1) Where in any action or other proceeding, any person shall claim, and but for this section would be entitled to, an injunction against the owner or occupier of any saw mill situate on or near the Ottawa River or any of its tributaries, for any injury or damage, direct or consequential, sustained by such person, or for any interference directly or indirectly with any rights of such person as riparian proprietor or otherwise, by reason or in consequence of the throwing or depositing of any sawdust or other mill refuse into the said river or its tributaries from the mill, or from such mill together with other mills, the Court or Judge may refuse to grant an injunction in the action or other proceeding, in case it is proved to the satisfaction of the Court or Judge by the person against whom the injunction is claimed that having regard to all the circumstances, it is on the whole, proper and expedient not to grant the same, and for that purpose shall take into consideration the importance of the lumber trade to the locality wherein

the injury, damage or interference takes place, and the benefit and advantage, direct and consequential, which such trade confers on the locality and on the inhabitants thereof, and shall weigh the same against the private injury, damage or interference complained of ;

(2) Or the Court or Judge may grant an injunction to take effect after such lapse of time or upon such terms and conditions or subject to such limitations or restrictions as to the Court or Judge may seem proper ;

(3) Or may in lieu of granting an injunction direct the person against whom the injunction is claimed to take such measures or perform such acts to prevent, avoid, lessen or diminish the injury, damage or interference complained of, as to the Court or Judge may seem proper ;

(4) Provided always that in such action or other proceeding the person claiming the injunction shall nevertheless be entitled to damages against the owner or occupier of the saw mill for any such injury, damage or interference. 48 V. c. 24, s. 1.

(5) In cases where damage from the same cause continues, the party may apply from time to time, in the same action, for the assessment of subsequent damages, or any other relief to which by subsequent events he may from time to time become entitled. 49 V. c. 16, s. 48.

24. The preceding section of this Act shall apply whether the said injury, damage or interference is a continuing one or not, and whether the person claiming any such injunction is plaintiff in the said action or other proceeding, or is a defendant therein proceeding by way of counter-claim ; but the said section shall not apply where in the opinion of the Court or Judge the injury, damage or interference complained of is of such a nature that the same cannot be adequately compensated for by the awarding of damages. 48 V. c. 24, s. 2.

Application of
preceding
section.

REVISED STATUTES OF ONTARIO, 1887.

CHAPTER 121

An Act respecting the Driving of Saw Logs and other Timber on Lakes, Rivers, Creeks and Streams.

SHORT TITLE, s. 1.

INTERPRETATION, s. 2.

WATER NOT TO BE OBSTRUCTED BY
FLOATING LOGS, ss. 3-5.PROVISION WHERE LOGS OF DIFFERENT
OWNERS ARE MIXED :Owners whose logs are intermixed
to share cost of driving, ss. 6-8.

Lien on logs, s. 8.

SEPARATION OF LOGS, ss. 9-11.

FORM OF SECURITY FOR PROPORTION
OF EXPENSES UNDER SECS. 5, 8
and 11, s. 12.DAMAGES WHEN LOGS WRONGFULLY
DETAINED OR SECURITY REFUSED,
s. 13.LIEN GIVEN BY SECS. 5, 8 AND 11 TO BE
SUBJECT TO TOLLS OR DUES, s. 14.RIGHTS OF CROWN NOT AFFECTED,
s. 15.DISPUTES TO BE SETTLED BY ARBI-
TRATION, ss. 16-26.

LIMITATION OF CLAIMS, s. 27.

EXEMPTION OF PARTS OF PROVINCE
FROM OPERATION OF ACT, ss. 28,
29.

HER MAJESTY, by and with the advice and consent of the
Legislative Assembly of the Province of Ontario, enacts
as follows:—

Short title.

1. This Act may be cited and known as "*The Saw Logs
Driving Act.*" 50 V. c. 17, s. 29.

Interpreta-
tion.

2. Where the words following occur in this Act, they shall
be construed in the manner hereinafter mentioned, unless a
contrary intention appears:—

1. "Logs" mean and include saw logs, timber, posts, ties,
cordwood, and other things being parts of trees.

2. "Water" means and includes lakes, ponds, rivers, creeks
and streams. 50 V. c. 17, s. 1.

Persons float-
ing logs in
river, etc., not
to obstruct
floating or
navigation.

3. Any person putting, or causing to be put, into any water
in this Province, logs, for the purpose of floating the same in,
upon or down such water, shall make adequate provisions and
put on a sufficient force of men to break, and shall make all
reasonable endeavours to break jams of such logs and clear the
same from the banks and shores of such water with reason-
able despatch, and run and drive the same so as not to unneces-
sarily delay or hinder the removal, floating, running or driving
of other logs, or unnecessarily obstruct the floating or naviga-
tion of such water. 50 V. c. 17, s. 2.

4. In case of the neglect of any person to comply with the provisions of the preceding section, it shall be lawful for any other person or persons desiring to float, run or drive logs in, upon or down such water, and whose logs would be thereby obstructed, to cause such jams to be broken and such logs to be cleared from the banks and shores of such water, and to be floated, run and driven in, upon and down such water. 50 V. c. 17, s. 3.

In case of neglect person obstructed may clear river, etc.

5. The person or persons causing such jams to be broken or such logs to be cleared, floated, run or driven, pursuant to the last preceding section, shall do the same with reasonable economy and despatch, and shall take reasonable care not to leave logs on the banks or shores, and shall have a lien upon the logs in the jam or so cleared, floated, run or driven for the reasonable charges and expenses of breaking the jams and the clearing, floating, running, driving, booming and keeping possession of such logs, and may take and keep possession of such logs, or so much thereof as may be reasonably necessary to satisfy the amount of such charges and expenses pending the decision by arbitration as hereinafter provided for. The person taking possession of logs under this section shall use all reasonable care not to take such logs beyond the place of their original destination, if known, but may securely boom and keep possession of the same at or above such place. The owner or person controlling such logs, if known shall be forthwith notified of their whereabouts, and if satisfactory security be given for the amount of such charges and expenses, possession of the logs shall be given up. 50 V. c. 17, s. 4.

Person clearing obstruction to use due care.

6. When logs of any person upon or in any water in this Province, or the banks or shores of such water, are so intermixed with logs of another person or persons, that the same cannot be conveniently separated for the purpose of being floated in, upon or down such water, then the several persons owning or controlling the intermixed logs, shall respectively make adequate provisions, and put on a fair proportion of the men required to break jams of such intermixed logs, and to clear the same from the banks and shores of such water with reasonable despatch, and to float, run and drive the same in, upon and down such water, and the costs and expenses thereof shall be borne by the parties in such proportions as they may agree upon, and in default of agreement as may be determined by arbitration as hereinafter provided for. 50 V. c. 17, s. 5.

Provision when logs of several owners cannot conveniently be separated.

7. In case of neglect of any person to comply with the provisions of the last preceding section, it shall be lawful for any other person or persons whose logs are intermixed, to put on a sufficient number of men to supply the deficiency and break jams of such intermixed logs, and to clear the same from

Provision when owner of any portion of logs is in default.

the banks and shores of such water, and to float, run and drive all such intermixed logs in, upon and down such water. 50 V. c. 17, s. 6.

Lien on logs.

8. The person or persons supplying such deficiency and causing such jams to be broken, or such intermixed logs to be cleared, floated, run or driven, pursuant to the last preceding section, shall do the same with reasonable economy and despatch, and shall take reasonable care not to leave logs on the banks or shores, and shall have a lien upon the logs owned or controlled by the person guilty of such neglect, for a fair proportion of the charges and expenses of breaking the jams, and the clearing, floating, running, driving, booming and keeping possession of such intermixed logs; and may take and keep possession of such logs, or so much thereof, as may be reasonably necessary to satisfy the amount of such fair proportion of charges and expenses pending the decision by arbitration, as hereinafter provided for. The person taking possession of logs under this section shall use all reasonable care not to take such logs beyond the place of their original destination, if known, but may securely boom and keep possession of the same at or above such place. The owner or person controlling such logs, if known, shall be forthwith notified of their whereabouts, and if satisfactory security be given for the amount of such proportion of charges and expenses, possession of the logs shall be given up. 50 V. c. 17, s. 7.

Separation of logs.

9. When logs of any person, upon or in any water in this Province, or the banks or shores of such water, are intermixed with logs of another person or persons, then any of the persons whose logs are intermixed, may at any time during the drive, require his logs to be separated from the other logs at some suitable and convenient place, and after such separation he shall secure the same at his own cost and expense, in such manner as to allow free passage for such other logs; provided that when any logs so intermixed reach their place of original destination, if known, the same shall be separated from the other logs and after such separation the owner shall secure the same at his own cost and expense. 50 V. c. 17, s. 8.

Proviso.

Expenses of separation to be shared.

10. The several persons owning or controlling the intermixed logs shall respectively make adequate provisions and put on a fair proportion of the men required to make the separation; the cost and expense of such separation shall be borne by the parties in such proportions as they may agree upon, and in default of agreement, as may be determined by arbitration as hereinafter provided. 50 V. c. 17, s. 9.

Provision when owner does not provide for his share of work.

11. In case of neglect of any person to comply with the provisions of the last preceding section, it shall be lawful for any other person or persons, whose logs are intermixed, to put

on a sufficient number of men to supply the deficiency, and the logs owned by or controlled by the person guilty of such neglect shall be subject to a lien in favour of the person or persons supplying the deficiency, for a fair proportion of the charges and expenses of making the separation, and for the reasonable charges and expenses of booming and keeping possession, and such person or persons may take and keep possession of such logs or so much thereof as may be reasonably necessary to satisfy the amount of such fair proportion of charges and expenses pending the decision by arbitration, as hereinafter provided for. The person taking possession of logs under this section shall use all reasonable care not to take such logs beyond the place of their original destination, if known, but may securely boom and keep possession of the same at or above such place. The owner or person controlling such logs, if known, shall be forthwith notified of their whereabouts and if satisfactory security be given for the amount of such proportion of charges and expenses, possession of the logs shall be given up. 50 V. c. 17, s. 10.

12. The security referred to in sections 5, 8 and 11 may be by bond in form A in the schedule hereto, or by deposit of money, or in such other way as the parties may agree upon. 50 V. c. 17, s. 11.

13. If it be determined by arbitration, as hereinafter provided for, that any person acting under the assumed authority of this Act, has without just cause taken possession of or detained or caused to be taken possession of or detained logs of another person, or has after offer of security which the arbitrators may think should have been accepted, detained such logs, or has through want of reasonable care left logs of another person on the banks or shores or has taken logs of another person beyond the place of their original destination contrary to the provisions of sections 5, 8 or 11, then such first mentioned person shall pay to such last mentioned person such damages as the arbitrators may determine. 50 V. c. 17, s. 12.

14. The lien given by sections 5, 8 and 11 of this Act shall be subject to the lien (if any) of any person or corporation for tolls or dues, for the use of any works or improvements made use of in running or driving logs. 50 V. c. 17, s. 13.

15. Nothing in this Act shall affect the liens or rights of the Crown upon or in respect of any logs. 50 V. c. 17, s. 14.

16. All claims, disputes and differences arising under this Act shall be determined by arbitration as hereinafter provided and not by action. 50 V. c. 17, s. 15.

Appointment
of arbitrators.

17. The person claiming that another person has not complied with the provisions of this Act, or claiming payment of any charges or expenses under this Act, or claiming a lien upon any logs, or claiming damages under section 13, shall give to such other person notice in writing, stating the substance of the claims made, and appointing an arbitrator, and calling upon such other person to appoint an arbitrator within ten days after the service of the notice; if such other person does not within the ten days appoint an arbitrator the Judge of the County or District Court of the county or district, or the Stipendiary Magistrate of the provisional county or the district, as the case may be, in which the logs in connection with which the claim or part of the claim is made, or the major portion of the logs are situate at the time of the service of the notice, shall, on the application of the person giving the notice, appoint a second arbitrator; the two arbitrators so appointed shall within ten days after the appointment of the second arbitrator appoint a third; if the two arbitrators do not within the ten days appoint a third, the Judge or Stipendiary Magistrate shall, on the application of either party, appoint the third arbitrator. 50 V. c. 17, s. 16.

Appointment
of new arbit-
rators.

18. If an arbitrator refuses to act or becomes incapable of acting, or dies, and the parties do not concur in appointing a new arbitrator, the Judge or Stipendiary Magistrate shall, on the application of either party, appoint a new arbitrator. 50 V. c. 17 s. 17.

Parties may
agree to have
only one
arbitrator.

19 The parties may agree that the arbitration shall be by one arbitrator instead of by three, and they may either agree upon the arbitrator or may apply to the Judge or Stipendiary Magistrate to appoint one. 50 V. c. 17, s. 18.

Counterclaim

20. The person on whom a claim is made and notice of arbitration served may at any time before the arbitration is entered upon or with leave of the arbitrators during the arbitration, give the claimant notice in writing by way of counterclaim, stating the substance of any claim arising under this Act which such person may have against the claimant, and such counterclaim, unless barred under section 27, shall be determined in the arbitration and an award made with respect thereto. 50 V. c. 17, s. 19.

Time within
which award
to be made.

21. The three arbitrators or the sole arbitrator, as the case may be, shall proceed with the arbitration with due despatch, and shall make their or his award in writing, under their or his hand within thirty days from the date of the appointment of such arbitrator, or the last of such three arbitrators, as the case may be. The parties may, by consent in writing, from time to time enlarge the time for making the award, or the Judge or Stipendiary Magistrate may from time to time, either before or after the expiration of the said time, enlarge the time for making the award. 50 V. c. 17, s. 20.

22. The arbitrators or arbitrator may require the personal attendance and examination upon oath of the parties and their witnesses and the production of all books and documents relating to the matters in question, and may determine by whom the expense of the arbitration, and the costs of the parties shall be paid, and the amount thereof; any costs or expenses payable to a person having a lien upon logs, by virtue of this Act shall be added to the amount of such lien. 50 V. c. 17, s. 21. Witnesses and evidence.

23. Sections 19 to 30 inclusive of *The Act respecting Arbitrations and References* applies to arbitrations under this Act. 50 V. c. 17, s. 22. Rev. Stat. c. 53, ss. 19-30 to apply.

24. The person having a lien upon logs by virtue of this Act, may sell the same in order to realize the amount of such lien, and of the costs, charges and expenses connected with the sale. The arbitrators, or arbitrator, shall determine either by their award or by separate document the time, place and manner of such sale, and may from time to time, give directions, in writing, respecting such sale, and the realization of such lien, and of the costs, charges and expenses connected therewith. 50 V. c. 17, s. 23. Sale by person having lien.

25. The award and directions in writing, of any two of the three arbitrators, or of the sole arbitrator, as the case may be, shall be final and binding upon and shall be obeyed by the parties, and shall be valid, notwithstanding any want or defect of form or other technical objection. 50 V. c. 17, s. 24. Award and directions to be final.

26. The Judge or Stipendiary Magistrate, as the case may be, may, on the application of either party, grant an order to compel any person to attend and give evidence upon the arbitration and to produce all books and documents relating to the matters in dispute, and obedience to such order may be enforced in the same way as obedience to any order of such Judge or Stipendiary Magistrate made in a cause or matter pending before him in court may be enforced, and the person neglecting or refusing, without lawful excuse, to obey such order, shall be liable to an action by any person aggrieved by such neglect or refusal for the damages sustained by him thereby. 50 V. c. 17, s. 25. Compelling attendance of witnesses and production of documents.

27. All claims arising under this Act shall be made by notice in writing under section 17, within one year after the same have arisen, otherwise they shall be barred. 50 V. c. 17, s. 26. Limitation of claims.

28. The Lieutenant-Governor in Council may from time to time by proclamation published in the *Ontario Gazette* declare that any portion or portions of this Province or any water therein shall, until further proclamation, be exempt from the operation of this Act, and thereupon the same shall be exempt accordingly. 50 V. c. 17, s. 27. Lieut.-Governor in Council may exempt districts from Act.

District ex-
empted may
be brought
under Act.

29. Any portion or portions of the Province, or any water therein exempted by proclamation from the operation of this Act may, by proclamation published in the *Ontario Gazette*, be again brought within its operation until further proclamation, and so on from time to time. 50 V. c. 17, s. 28.

SCHEDULE.

FORM A.

(Section 12.)

Know all men by these presents that we (*here insert names of obligors, being the owner of the logs and at least one sufficient surety; or, if the signature of the owner cannot be obtained without unreasonable delay, then being two sureties*), are held and firmly bound unto A. B. (*here insert the name of the person claiming the lien*) in the penal sum of (*double the amount of the claim*) \$, to be paid to the said A. B., his executors, administrators and assigns, for which payment well and truly to be made, we and each of us, bind ourselves, and each of us our and each of our executors and administrators jointly and severally, firmly by these presents, sealed with our seals, and signed by us this day of , A. D., 18 .

Whereas the said A. B., claiming to act under the authority of *The Saw Logs Driving Act*, has taken possession of certain (saw logs, timber, etc., *as the case may be*) owned or controlled by and claims a lien thereon for the sum of \$, under the provisions of section (5, 8 or 11, *as the case may be*) of the said Act.

And whereas this bond is given as security for payment to the said A. B., of such sum as he may be held entitled to by arbitration pursuant to the said Act. and of any costs and expenses of the arbitration which may become payable to him.

Now the condition of the above obligation is such that if the said , his executors or administrators do pay to the said A. B., his executors, administrators or assigns, such sum as may be determined by arbitration pursuant to the said Act, to be payable to the said A. B., his executors, administrators or assigns. for charges and expenses under section (5, 8 or 11, *as the case may be*) of said Act, and also such sum as may become payable to the said A. B., his executors, administrators or assigns, for costs and expenses of such arbitration, then the above obligation to be void, otherwise to remain in full force.

Signed, sealed and delivered)
in the presence of)

[SEAL.]

[SEAL.]

50 V. c. 17, Schedule.

REVISED STATUTES OF ONTARIO, 1887.

CHAPTER 160.

An Act respecting Joint Stock Companies for the construction of works to facilitate the transmission of Timber down Rivers and Streams.

SHORT TITLE, s. 1.
GRANT OF POWERS BY LETTERS PATENT, ss. 2-9.
BY-LAWS, ss. 10-13.
PROPERTY NOT TO BE INTERFERED WITH WITHOUT LEAVE, s. 14.
CONSENT TO FORMATION OF COMPANY, WHEN REQUIRED, s. 15.
RECOVERY OF PAYMENTS MADE FOR SHAREHOLDERS, s. 16.
TERMINATION OF COMPANY'S EXISTENCE, ss. 17-19, 57.
Property to vest in Crown, s. 17.
Company to continue for purpose of winding up, s. 18.
Distribution of capital, s. 19.
DIRECTORS TO REPORT YEARLY TO COMMISSIONER OF PUBLIC WORKS, s. 20.
BOOKS TO BE KEPT BY COMPANY, s. 21.
Inspection of books, s. 22.
ARBITRATION PROCEEDINGS, ss. 23-34.
MILL-SITES NOT TO BE TAKEN WITHOUT CONSENT OF OWNER, s. 35.
WHERE NO DAMAGES RECOVERABLE FOR OVERFLOWING LANDS, s. 36.

NAVIGABLE WATERS NOT TO BE OBSTRUCTED, s. 37.
RIGHTS AS TO WATER-POWERS CREATED BY COMPANY'S WORKS, s. 38.
TOLLS, ss. 39-47.
OFFENCES AND PENALTIES:
Impeding operations of company, s. 48.
Recovery of penalties, s. 49.
Appropriation of penalties, ss. 50-52.
Limitation of actions, s. 53.
MISCELLANEOUS:
Time for completion of works, s. 54.
Repair of works, s. 55.
Union of companies, s. 56.
Dissolution of companies, s. 57.
Limitation of existence of companies, s. 58.
Extension of existence of companies, s. 59.
Provision as to companies incorporated before March 5, 1881, s. 60.

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:—

1. This Act may be cited as "*The Timber Slide Companies Act*," 44 V. c. 19, s. 1.

2. In case the Lieutenant-Governor in Council thinks fit, he may confer upon any company which has heretofore been, or shall be hereafter incorporated, under *The Ontario Joint Stock Companies Letters Patent Act*, for the purpose of acquiring or constructing and maintaining any dam, slide, pier, boom or other work necessary to facilitate the transmission of timber down any river or stream in this Province, or for the purpose of blasting rocks, or dredging or removing shoals or other impediments, or of otherwise improving the navigation of such river or stream for the said purpose, the powers autho-

Certain powers may be granted to timber slide companies.
Rev. Stat. c. 157.

rized by this Act, and every such company shall thereupon become subject to all the provisions of this Act. 44 V. c. 19, ss. 2, 3.

When letters patent may be issued.

3. The letters patent conferring the powers authorized by this Act shall not be issued to any company until proof has been furnished that one-half of the proposed capital has been subscribed in good faith, and that at least ten per centum thereof (or five per centum of the whole capital) has been paid in to the credit of trustees for the company, and remains at their credit in some one or more of the chartered banks of this Province. 44 V. c. 19, s. 4.

Section 3 has been amended by Cap. 43 of Ont. Stat. of 1890, Section 6. See page 121.

Report to be transmitted Provincial Secretary by applicants.

4. The applicants for a charter shall, with their application, transmit to the Provincial Secretary a report to be laid before the Commissioner of Public Works, in case the Provincial Secretary or other officer charged by the Lieutenant-Governor in Council with the duty of reporting thereon shall deem that the other requirements preliminary to the issue of the charter have been duly complied with, and shall also cause a copy of the report to be laid before the municipal council of the county in which the works are proposed to be situated; or if the works are situate in more than one county, then before the municipal councils of the counties in or on the boundaries of which the works are proposed to be situated; or if the proposed works are in unsurveyed lands not contained within the bounds of any incorporated county, then before the Commissioner of Public Works alone. 44 V. c. 19, s. 5.

Rate of dividend may be stated in Letters Patent.

5. The Lieutenant-Governor may, in the letters patent, state a rate of dividend, not exceeding fifteen per centum, which the directors shall be at liberty to pay to the shareholders, if the revenues of the company otherwise justify such payment, and in such case the Commissioner of Public Works, shall, in considering the tolls to be allowed, have regard to such rate, but no such rate shall be so fixed for a longer period than ten years. 44 V. c. 19, s. 6.

Limitation of company's existence.

6. The existence of any company incorporated under this Act may be limited to such a term of years as is fixed by the letters patent. 44 V. c. 19, s. 7.

Particulars of notice in Gazette.

7. The notice of application in the *Gazette* need not state the objects of the company with the same detail as is required in the report, but shall give such a description thereof as will reasonably inform the public of the works to be undertaken. 44 V. c. 19, s. 8.

8. The report shall contain—Contents of
report.

1. A detailed description of the works to be undertaken and an estimate of their cost ;

2. An estimate from the best available sources of the quantity of different kinds of timber expected to come down the river or stream yearly after the works have been completed ; and

3. A schedule of the tolls proposed to be collected. 44 V. c. 19, s. 9.

Section 8 is amended and Section 9 repealed by Ont. Stat. 1890, Cap. 43. See page 120.

10. Every company may make by-laws, and from time to time alter and amend the same, for the purpose of regulating the safe and orderly transmission of timber over or through the works of the company, and the navigation therewith connected. 44 V. c. 19, s. 11.

By-laws to
regulate trans-
mission of
timber.

11. Copies of the proposed by-laws shall be annexed to the reports required to be made by the company by section 4 of this Act, and the proposed by-laws with such variations as are made therein by the Commissioner of Public Works at any time before the issue of the letters patent, shall, upon the issue of the letters patent, become the by-laws of the company without further action or adoption by the company, and copies of all new by-laws, and of all amended by-laws, with reference to the said subjects, shall be annexed to the annual reports required by section 20 of this Act. 44 V. c. 19, s. 12.

Copies of pro-
posed by-laws
to be annexed
to reports of
company.

12. No new by-law, or amended by-law, shall have any force until one month after it has been included in the report; but if at the end of one month the by-law has not been disallowed as it may be by the Commissioner of Public Works, it shall have full force and be binding upon the company, and upon all persons using the works, unless the Commissioner in the meantime shall have under his hand enlarged the time for considering the same. 44 V. c. 19, s. 13.

When by-law
to come in
force.

13. No such by-law shall impose any penalties, or shall contain anything contrary to the true meaning and intention of this Act. 44 V. c. 19, s. 14.

Restrictions
as to by-laws.

14. No such company shall construct such works over or upon or otherwise interfere with or injure any private property, or the property of the Crown, without first having obtained the consent of the owner, or occupier thereof, or of the Crown, except as is in this Act provided. 44 V. c. 19, s. 15 ; 47 V. c. 25, s. 1.

Company not
to interfere
with property
without leave.

Consent to formation of company, when required.

15. No such company shall be formed under the provisions of this Act to improve any river or stream, for the improvement of which any other company has been formed either under this Act, or any other Act of the Legislature, or upon which there is constructed any Provincial work, without the consent of such other company or of the Lieutenant-Governor in Council respectively, which consent shall be formally expressed in writing, and shall be filed in the office of the Provincial Secretary. 44 V. c. 19, s. 16.

Recovery of payments made for shareholders.

16. In all cases where a shareholder has not paid ten per centum on the share or shares held by him, but some other party pays the same on his behalf, the party so paying may recover the amount as a debt, in any competent Court, although not previously authorized to pay the money on behalf of such shareholder. 44 V. c. 19, s. 17.

On expiration of company's existence, property to vest in the Crown.

17. Upon the expiration of the period limited for the existence of the company, if such period is limited by the letters patent, all the dams, slides, piers, booms and other works constructed by the company, for the transmission of timber down any river or stream, or for the improvement of the navigation of such river or stream, shall become the property of Her Majesty for the public uses of the Province, and the company, or the shareholders thereof, shall have no right to receive any compensation therefor. 44 V. c. 19, s. 18.

Company's existence to continue for the purpose of winding up.

18. Notwithstanding the expiration of the said period, the company shall continue to exist for the purpose of taking such proceedings as may be requisite for getting in its assets, winding up and settling its affairs, and distributing amongst its shareholders the capital stock or accumulated sinking fund of the said company, and the company may, for the purposes aforesaid, sue and be sued as if the period of its corporate existence had not expired; but after such period the words "in liquidation" shall be added to the name of the company, and shall be a part of such name. 44 V. c. 19, s. 19.

Distribution of capital and profits.

19. No distribution of capital shall be made under the next preceding section until three years after the expiration of the said period limited as aforesaid for the existence of the company, but this shall not prevent the distribution amongst the shareholders of the annual profits received from investments, and after the said period section 66 of the said *Joint Stock Companies' Letters Patent Act* shall not apply to the company. 44 V. c. 19, s. 20.

Rev. Stat. c. 157, s. 66.

Directors to report yearly to the Commissioner of Public Works

20. The directors of every company incorporated under this Act shall, annually, in the month of January, make a report to the Commissioner of Public Works, which report shall be under the oath of the treasurer of the company, and shall specify—

1. The cost of the work ;
 2. The amount of all money expended ;
 3. The amount of the capital stock, and how much paid in ;
 4. The whole amount of tolls expended on the work ;
 5. The amount received during the year from tolls and all other sources, stating each separately, and distinguishing the tolls on different kinds of timber ;
 6. The amount of dividends paid ;
 7. The amount expended for repairs ; and
 8. The amount of debts due by the company, specifying the objects for which the debts respectively were incurred.
- R. S. O. 1877, c. 153, s. 27.

What the report is to contain.

This Section is amended by Cap. 43 of Ont. Stat. 1890, Section 8.

21. Every company shall keep regular books of account, in which shall be entered a correct statement of the assets, receipts and disbursements of the company, and such books shall be at all times open to the inspection and examination of any shareholder. R. S. O. 1877, c. 153, s. 28, *part*.

Every company to keep regular books of account.

22. The Commissioner of Public Works may appoint a person to inspect and examine such books and every person so appointed may take copies or extracts from the same, and may require and receive from the keeper of such books, and also from the president and each of the directors of the company, and all the other officers and servants thereof, all such information as to such books and the affairs of the company generally, as the person so appointed deems necessary for the full and satisfactory investigation into and report upon the state of the affairs of the company, so as to enable him to ascertain whether the tolls levied upon the work are greater than this Act allows to be levied. R. S. O. 1877, c. 153, s. 28, *part*.

Inspection of books.

23. If upon demand made by the directors of the company the owner or occupier of any land, over, through or upon which the company desires to construct such work, or which would be flooded or otherwise interfered with, or upon which any power given by this Act to the company is intended to be exercised, neglects or refuses to agree upon the price or amount of damages to be paid for, or for passing through or using such land, or for flooding or otherwise interfering with the same, and for appropriating the same to and for the use of the company, or for the exercise of such power as aforesaid, the company may name one arbitrator, and the owner or occupier of the land may name another arbitrator, and the two arbitrators may name a third, to arbitrate and determine upon the amount which the company shall pay before taking possession of such land or exercising such power, and the decision of any two of the said arbitrators shall be final. R. S. O. 1877, c. 153, s. 41.

When matters respecting compensation to be submitted to arbitration.

Arbitrators to consider advantages as well as disadvantages.

24. In ascertaining the amount aforesaid, due regard shall be had by the arbitrators to the benefits which will accrue to the party demanding compensation by the construction of the intended works. R. S. O. 1877, c. 153, s. 42.

Upon tender of the sum awarded, the company entitled to a conveyance.

25. The company may tender the sum awarded to the party claiming compensation, who shall thereupon be bound to execute a conveyance of the land to the company, or such other document as may be requisite; and the company, after such tender, whether a conveyance or other document has been executed or not, may enter upon and take possession of the land to and for the uses of the company, and may hold the same, or exercise such power as aforesaid, in the same manner as if a conveyance thereof or other document had been executed. R. S. O. 1877, c. 153, s. 43.

When the Judge, etc., to name an arbitrator.

26. If such owner or occupier neglects to name an arbitrator for the space of twenty days, after having been notified so to do by the company, or if the two arbitrators do not within the space of twenty days after the appointment of the second arbitrator agree on a third arbitrator, or if any one of the arbitrators refuses or neglects, within the space of ten days after his appointment, to take upon himself the duties thereby imposed, then, upon the application of the company, or of the other party, the Judge of the County Court of the county within which the land lies, shall nominate a disinterested competent person, from any township adjoining the township in which the land is situate, as arbitrator for the owner or occupier so neglecting to name an arbitrator after having been duly notified by the company as aforesaid, or as third arbitrator, or as arbitrator; and every arbitrator so appointed by the Judge of the County Court, shall hear and determine the matter to be submitted to him, with all convenient speed, after he has been so nominated as aforesaid; and any award made by a majority of the arbitrators shall be as binding as if the three arbitrators had concurred in and made the same. R. S. O. 1877, c. 153, s. 44; 50 V. c. 7, s. 12.

How company to proceed in the case of lands of absentees.

27. In case any lands required by the company for the purpose of such work, or with regard to which such power is to be exercised as aforesaid, are held or owned by any person, body politic, corporate or collegiate, whose residence is not within this Province or is unknown to the company, or in case the title to such lands is in dispute, or in case such lands are mortgaged, or in case the owner or owners of such lands are unknown, or unable to treat with the company for the sale thereof, or the exercise of any such power as aforesaid by the company, or to appoint arbitrators as aforesaid, the company may nominate and appoint one indifferent person and the Judge of the County Court where the lands are situate, on the application of the company, may nominate and appoint one

other disinterested competent person from any township adjoining the township in which the lands are situate, who, together with one other person to be chosen by the persons so named before proceeding to business, or, in the event of their disagreeing as to the choice, with one other person to be appointed by the Judge as aforesaid before the others proceed to business, shall be arbitrators to award, determine, adjudge and order the respective sums of money which the company shall pay to the party entitled to receive the same, for the lands or damages as aforesaid, and the decision of a majority of the arbitrators shall be binding. R. S. O. 1877, c. 153, s. 45.

28. When demanded, the company shall pay or cause to be paid to the several parties entitled to the same, the amount so awarded. R. S. O. 1877, c. 153, s. 46.

Amount of
award to be
paid on
demand.

29. A record of the award shall be made up and signed by the arbitrators, or a majority of them, specifying the amount awarded and the costs of arbitration, which may be settled by the arbitrators, or a majority of them; and the record shall be deposited in the registry office of the registry division in or along which the lands are situate, and the company may thereupon enter and take possession of the land to and for the uses of the company, and may proceed with the construction of the works affecting the same. R. S. O. 1877, c. 153, s. 47.

A record of
the award to
be drawn up
and registered

30. The expenses of any arbitration under this Act shall be paid by the company, and by them be deducted from the amount of the award on payment thereof to the parties entitled to receive the same, if the company, before the appointment of their arbitrator, had tendered an equal or greater sum than that awarded by the arbitrators, otherwise the expense shall be borne by the company, and the arbitrators shall specify in their award by which of the parties the said costs shall be paid. R. S. O. 1877, c. 153, s. 48.

Costs of refer-
ence to be
paid by the
company, etc.

31. All lands taken by the company, for the purpose of such work, and which have been purchased and paid for by the company, in the manner hereinbefore provided, shall become the property of the company, free from all mortgages, incumbrances and other charges. R. S. O. 1877, c. 153, s. 49.

When lands
taken to be-
come the pro-
perty of the
company.

32. The arbitrators so appointed shall fix a convenient day for hearing the respective parties, and shall give eight days' notice at least of the day and place; and having heard the parties or otherwise examined into the merits of the matter so brought before them, the said arbitrators or a majority of them shall, within thirty days of their appointment, make their award thereupon in writing, which award shall be final as to the amount in dispute. R. S. O. 1877, c. 153, s. 50.

How arbitra-
tors to pro-
ceed.

If timber slides, etc., erected by others be assumed by the company, how compensation to be made.

33. In case there is already established by any party other than a company formed under this Act or some other Act of this Province, or some Act of the late Province of Canada, any slide, pier, boom, or other work intended to facilitate the passage of timber down any water, for the improvement of which a company is formed under this Act, such company may take possession of the works; and the owners thereof, or (if the works have been constructed on the property of the Crown) the persons at whose cost they have been constructed, may claim compensation for the value of the works either in money or in stock of the company, at the option of the owner or the person at whose cost the same was constructed, and may become shareholders in the company for an amount equal to the value of the works (such value to be ascertained by arbitrators appointed in the manner hereinbefore provided); and all the provisions of sections 27 to 31 of this Act shall apply to such work in the same manner and to the same extent as to lands acquired by such company. R. S. O. 1877, c. 153, s. 51.

Formalities to be observed by company acquiring existing works.

34. In case such company purchases or takes possession of the works as aforesaid, and does not make or construct any other works than those so acquired, the company shall furnish the Commissioner of Public Works with the report in section 8 mentioned, but need not cause a copy to be laid before the county council. R. S. O. 1877, c. 153, s. 52.

Mill sites, etc., not to be taken without the consent of the owner.

35. Nothing herein contained shall authorize a company formed under this Act to take possession of, or in anywise injure any mill site upon which there are existing mills or machinery, or hydraulic works other than those intended to facilitate the passage of timber; and no company formed under this Act shall commence any work which interferes with or endangers such occupied mill site, without the assent in writing of the proprietor thereof previously obtained, or an award of arbitrators appointed as herein provided, to the effect that the proposed works will not injure such mill site, which assent or award shall be registered in the same manner as the instrument of incorporation of such company. R. S. O. 1877, c. 153, s. 53.

Sections 15 & 16 of Rev. Stat. c. 118, to apply.

36. The provisions of sections 15 and 16 of *The Act respecting Mills and Mill Dams* shall extend to similar land overflowed by any of the works constructed by any company formed under this Act. R. S. O. 1877, c. 153, s. 54.

Navigable waters not to be obstructed. Tolls to be on timber only.

37. Nothing herein contained shall authorize a company formed under this Act to obstruct any waters already navigable, or to collect tolls other than those upon timber. R. S. O. 1877, c. 153, s. 55.

38. If by reason of a dam erected by a company formed under this Act, any fall or water power is created, the company shall in nowise have any title or claim to the use of such water power; nevertheless, if the owner or occupier of the land adjoining has made a claim for compensation for damages arising from such dam, the arbitrators may take into account the increased value of his property by reason of the water power so created. R. S. O. 1877, c. 153, s. 56.

Rights of parties as to water powers created by the company.

39. The tolls for the first year shall be calculated upon the estimates hereinbefore required to be made of the cost of the works, and the quantity of different kinds of timber expected to pass down the stream, and the tolls in all future years shall be calculated upon the cost of the works and the quantity of different kinds of timber expected to pass down the stream, and the receipts and expenditure, according to the accounts of the then next preceding year, as rendered in accordance with the provisions of section 20 and the following sections of this Act; and the tolls shall be so calculated that, after defraying the necessary cost of maintaining and superintending the works and running, driving, booming, towing, sorting, and rafting logs and other timber, and providing an equal annual sinking fund, which, invested at six per centum, shall be sufficient to pay back to the shareholders the amount of their paid-up stock at the end of the time limited for the existence of the company, and collecting the tolls, the balance of the receipts may as nearly as possible be equal and in no case exceed \$10 for every \$100 expended and invested in the said works, and if in any year the receipts from tolls are such, that, after defraying all the current expenses, there remains a clear profit of more than \$10 upon every \$100 of the capital expended, there shall nevertheless be divided amongst the shareholders no greater dividend than after the rate of \$10 for every \$100, and the remainder shall be carried over to the receipts of the following year unless a higher rate is authorized by the letters patent or by Order in Council. R. S. O. 1877, c. 153, s. 57; 44 V. c. 19, s. 21

Principle on which tolls to be calculated.

Section 40 is repealed by Cap. 43, Ont. Stats. of 1890, Section 10, and a new one substituted.

Section 41 is repealed by Ont. Stat. Cap. 43, Section 4, and a new Section substituted. See page 121.

42. Every company may demand from the owner of any timber intended to be passed through any portion of the works of the company, or from the person in charge of the same, a written statement of the quantity of every kind of timber and of the destination of the same, and of the sections of the works through which it is intended to pass, and if no written statement is given when required, or a false statement

Company may demand of owner statement of quantity of timber liable to toll.

Penalty for refusal or false statement.

is given, the whole of the timber, or such part of it as has been omitted by a false statement, shall be liable to double toll. R. S. O. 1877, c. 153, s. 60.

On what timber toll may be taken.

Right of company to examine.

43. Every company may demand and receive the lawful toll upon all timber which has come through or over any of the works of the company; and the company by its servants, shall have free access to all such timber for the purpose of measuring or counting the same. R. S. O. 1877, c. 153, s. 61.

May sue for tolls.

44. If the just tolls are not paid on demand, the company may sue for the same in any Court of competent jurisdiction, and recover from the owner of the timber the amount of the tolls and the costs of suit. R. S. O. 1877, c. 153, s. 62.

If full toll tendered, company liable to costs.

45. If the owner of the timber objects to the amount of tolls demanded, and tenders a sum which he claims to be the true and just amount of the tolls, the company shall pay the costs of the action, unless the judgment obtained is for a greater amount than the sum so tendered. R. S. O. 1877, c. 153, s. 63.

Toll to be apportioned to the extent of the works used.

46. If timber has not come through or over the whole of the works of the company, but only through or over a part thereof, the owner of the timber shall only be liable to pay tolls for such sections of the whole works as he has made use of, if in the schedule of tolls the work is divided into sections, and if not, then to pay such a portion of the whole toll as the distance the timber has come through the works, bears to the whole distance over which the works extend. R. S. O. 1877, c. 153, s. 64.

When and how timber may be seized for tolls.

47. If the true owner of any timber which has passed through any of the works of the company cannot be ascertained, or if there are reasonable grounds to apprehend that the tolls thereon have not been paid by the owner or reputed owner or person in charge, any mayor, reeve or Justice of the Peace having jurisdiction within the locality through or adjoining which such navigation extends, or where the timber may be found, if within twenty miles of any such works, shall, upon the oath of any director or servant of the company that the just tolls have not been paid, issue a warrant for the seizure of such timber, or so much thereof as will be sufficient to satisfy the tolls, which warrant shall be directed to any constable or any person sworn in as a special constable for that purpose, at the discretion of the magistrate, and shall authorize the person to whom it is directed, if the tolls are not paid within fourteen days from the date thereof, to sell the said timber, and out of the proceeds to pay to the company the just tolls, together with the costs of the warrant and sale, rendering the surplus on demand to the owner. R. S. O. 1877, c. 153, s. 65.

Section 47 has been amended by Cap. 43 of Ont. Stat. 1890, Section 7. See page 121.

OFFENCES AND PENALTIES.

48. If any person resists or impedes any of the servants of the company in the transmission of any timber through any such works, or in carrying out any regulations of the company for the greater safety and regularity of such transmission, or resists any such servants who may require access to any raft or other timber to ascertain the just tolls thereon, or in any way molests the company or its servants in the exercise of any rights secured to them by this Act, such person shall, upon conviction thereof in a summary way before a Justice of the Peace having jurisdiction in the locality in or adjoining which the offence has been committed, be sentenced to pay a fine of not more than \$10 nor less than \$1, together with all costs, to be paid within a time to be limited by the justice, and in default to be levied as next hereinafter provided. R. S. O. 1877, c. 153, s. 66.

Impeding the operations of the company

49. In any proceeding or prosecution before any Justice of the Peace under this Act, the justice may summon the party complained against to appear at a time and place to be named in the summons, and if he does not appear accordingly, then, upon proof of the due service of the summons upon such party, either personally or by leaving a copy thereof at his usual place of abode, or with any adult person belonging to the raft to which such party is attached, the justice may either proceed to hear and determine the case *ex parte*, or issue his warrant for apprehending and bringing the party before himself or some other Justice of the Peace, or the justice may, without previous summons, issue such warrant, and the justice before whom the parties appear or are brought shall proceed to hear and determine the case. R. S. O. 1877, c. 153, s. 67.

How Justices to proceed in prosecutions under this Act.

50. The fines and forfeitures authorized to be summarily imposed by this Act may be recovered upon information and complaint before any Justice of the Peace of the county within which the same have been incurred, and shall be levied and collected by distress and sale of the offender's goods and chattels, under the authority of a warrant of distress for that purpose, to be issued by the justice before whom the conviction has been had. R. S. O. 1877, c. 153, s. 68.

How fines, etc., recoverable.

51. In case there are no goods or chattels to satisfy such warrant, the offender shall be committed to the common gaol of the district or county for any period not exceeding one month. R. S. O. 1877, c. 153, s. 69.

If no goods, offender to be imprisoned.

52. All fines and forfeitures collected under the authority of this Act shall be paid to the treasurer of the company owning the work in respect of which such fines and forfeitures have been imposed, for the use of the company. R. S. O. 1877, c. 153, s. 70.

Fines, etc., to be paid to the treasurer of the company.

Limitation of
actions.

53. Any action against any person for any matter or thing done in pursuance of this Act, shall be brought within six months next after the fact committed, and not afterwards; and the defendant therein may plead not guilty by statute, and give this Act and the special matter in evidence on the trial. R. S. O. 1877, c. 153, s. 71.

MISCELLANEOUS.

Within what
time works to
be completed,
etc.

54. Every such company shall, within two years from the day of their becoming incorporated, complete each and every work undertaken by them, and mentioned in the report required prior to the incorporation of the company, and for the completion whereof they may be incorporated; in default whereof they shall forfeit all the corporate and other powers and authority which they have in the meantime acquired; and all their corporate powers shall thenceforth cease and determine, unless further time is granted by a by-law of the county or counties, district or districts in or adjoining which the work is situate, or by the Commissioner of Public Works; and if any company formed under this Act, for the space of one year abandons any works completed by them, so that the same are not in sufficient repair and cannot be used for the purpose proposed in the instrument of incorporation of the company, then the corporate powers of the company shall cease and determine. R. S. O. 1877, c. 153, s. 72; 44 V. c. 19, s. 22.

Section 54 is amended by Cap. 43 of Ont. Stat. 1890, Section 5. See page 131.

Works to be
kept in good
repair.

55. After any works constructed by a company under this Act have been completed and tolls established, the company shall keep the same in good and sufficient repair; and if such works have not been constructed according to the description given thereof in the report required by section 8 of this Act, or have become insufficient or out of repair, any person interested in the navigation may serve upon any servant of the company a notice of such insufficiency, and if within a reasonable time after the service of such notice the necessary repairs have not been completed, the company shall be liable for the damage which any person may sustain from the continuance of such insufficiency; but no company formed under this Act shall be held liable for any damage incurred after the time limited for the existence of the company has expired, or so long as their works are in accordance with the description or specification thereof in the original instrument required to be registered, or in any description or specification subsequently approved of and registered, nor for any damage arising from the accidental destruction or injury of their works, but only for the damage which may arise from the wilful neglect of the company after notice served upon one of its servants, as hereinbefore provided. R. S. O. 1877, c. 153, s. 73; 44 V. c. 19, s. 23.

56. Any two companies formed for the construction of works on any streams contiguous to each other, may unite and form one consolidated company, on such terms as to them seem meet; and the name of the united companies to be then assumed shall thenceforth be the corporate name thereof, and the united companies may then exercise and enjoy all the rights, and shall be subject to all the liabilities of other companies formed under the provisions of this Act, and which the separate companies had and enjoyed or were subject or liable to before the union thereof. R. S. O. 1877, c. 153, s. 74.

When companies may be united.

57. Whenever it is found expedient for the public service, the Lieutenant-Governor in Council may declare any company formed under this Act dissolved, and may declare all the works of such company, Provincial Works, upon payment to such company of the then actual value of the works, to be decided by arbitrators, one of whom shall be appointed by the Commissioner of Public Works, and one by the company, and if they do not agree to an award, the Judge of the County Court for the county in or adjoining which the works are situate, shall be the third arbitrator, and in settling the amount to be paid to the company for the works, the amount of the sinking fund accumulated at the time of the valuation towards the payment of the capital stock shall be deducted therefrom. R. S. O. 1877, c. 153, s. 75; 44 V. c. 19, s. 24.

When the Lieutenant-Governor in Council may declare a company dissolved.

Arbitration in such case.

58. Where a company heretofore incorporated under chapter 153 of the Revised Statutes of 1877, or under chapter 68 of the Consolidated Statutes of Canada, applies for the issue of letters patent under section 72 or section 73 of *The Ontario Joint Stock Companies' Letters Patent Act*, the Lieutenant-Governor may, by the letters patent, confer upon the said company any of the powers authorized by this Act, and may by such letters patent limit the term of existence of the said company, and every such company obtaining letters patent as aforesaid, shall be subject to the provisions of this Act. 44 V. c. 19, s. 25.

Letters Patent may limit term of existence of certain companies. Rev. Stat. c. 157.

59. The Lieutenant-Governor may, by supplementary letters patent extend the term of existence of any company incorporated for a limited period under this Act, for such a number of years, as by Order in Council made previous to the expiry of such period he may direct, and the provisions of this Act having regard to the expiration of the term of existence of a company shall thereupon apply to such term as so extended. 44 V. c. 19, s. 26.

Existence of Company may be extended by supplementary letters patent.

Section 59 is amended by Cap. 43 of Ont. Stat. 1890, Section 9. See page 122.

Special provisions as to companies incorporated before March 5, 1881.

Rev. Stat. c. 157.

60. Sections 39, 55 and 57 of this Act, shall not apply to any company incorporated before the 5th day of March, 1881, unless and until such company has become or becomes re-incorporated under section 72 of *The Ontario Joint Stock Companies' Letters Patent Act*; but in lieu of the said sections the provisions of sections 57, 73 and 75 of chapter 153 of the Revised Statutes of 1877, shall apply to any company incorporated as aforesaid and not re-incorporated, and sections 3, 8 to 10, 12 to 26, and 29 to 40 of the said chapter 153 shall also continue to apply to every such company. 44 V. c. 19, ss. 27, 28.

ONTARIO STATUTES, 1890.

CHAPTER 43.

An Act to Amend The Timber Slide Companies Act.

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows :

Commissioner of Crown Lands substituted for Commissioner of Public Works.

1. Wherever, in *The Timber Slide Companies Act*, the words "the Commissioner of Public Works" occur, the same shall be struck out, and the words "the Commissioner of Crown Lands" shall be substituted therefor.

Rev. Stat. c. 160 amended.

2. The following shall be inserted in the said Act, immediately after section 8 :—

Publication of schedule of tolls.

8a. The schedule of tolls so proposed to be collected shall be published for one month from the date of the report containing such schedule in some paper published in the county or counties, district or districts in which, or nearest to which, the works are situate.

Rev. Stat. c. 160, s. 9, repealed.

3. Section 9 of said Act is hereby repealed, and the following substituted therefor :

Commissioner to consider and approve report before issue of charter

9. Thirty days after the first day of publishing such schedule of tolls, and not less than thirty days after the said report has been laid before the municipal council or councils, as the case may be, the Commissioner of Crown Lands shall consider the said report, and in case he approves of the proposed works he shall report such approval to the Lieutenant-Governor, who may thereupon direct the issue of a charter.

Rev. Stat. c. 160, s. 41 repealed.

4. Section 41 of said Act is repealed, and the following substituted therefor :—

(41) The annual account required to be rendered by every company shall contain a schedule of the tolls calculated as aforesaid, which it is proposed to collect in the following year, which schedule shall be published in manner provided by section 8a hereof prior to the first day of March in each year, and if it has not been notified to the president of the company on or before the fifteenth day of April in each year, that the schedule of tolls has been disallowed by an order of the Commissioner of Crown Lands, such tolls so published shall be the lawful tolls for that year; but if it appears to the Commissioner of Crown Lands, that the proposed schedule of tolls has not been calculated according to the true intent, and meaning of this Act, then the Commissioner may, by an instrument under his hand, alter or vary the schedule of tolls so as to make them correspond with the true meaning of this Act; and the amended schedule of tolls shall be notified to the president of the company, and shall by him be published immediately thereafter for two weeks in such newspaper, and shall be the lawful tolls for that year. Should no change be made by the commissioner a notice of that fact shall be published for two weeks in such newspaper.

Annual account to be rendered by company to contain a schedule of tolls.

5. Section 54 of said Act is hereby amended by inserting after the words "the Commissioner of Crown Lands," in the eleventh line thereof, the following: "or unless on any work or any part or parts of such work appearing to be unnecessary the same is dispensed with by such by-law or by the Commissioner of Crown Lands," and by adding at the end thereof the following: "unless on the maintenance of the work or any part or parts so abandoned becoming unnecessary, owing to the clearance or removal of the timber from the immediate neighbourhood thereof, or otherwise the abandonment of the same is permitted by such by-law or by the Commissioner of Crown Lands."

Rev. Stat. c. 160, s. 54, amended.

6. Section 3 of said Act is hereby amended by adding at the end thereof the following "nor until notice of the application for a charter has been served upon all timber limit owners and other parties known to be interested in the works proposed to be constructed, who shall also have the option at any time before the issue of a charter of becoming shareholders in the company in proportion to their interests involved."

Rev. Stat. c. 160, s. 3, amended.

7. Section 47 of the said Act is amended by adding thereto the following sub-section:

Rev. Stat. c. 160, s. 47, amended.

(2) In addition to the rights of seizure for tolls provided for by said section when the works through which any timber is passed are in whole or in part constructed upon or along any river or stream tributary to any river or stream which flows into the Georgian Bay, Lake Huron, or Lake Superior, or upon or along any of such last named rivers or streams, the right of

Seizure of timber for tolls in certain streams.

seizure for tolls in said section provided for shall continue while the timber remains in the said last named river or stream, whether the timber be within the said twenty miles or otherwise. And where such works are constructed upon or along any river or stream in the Province of Ontario, tributary to the Ottawa River, the right of seizure for tolls, shall continue while the timber remains in such tributary river or stream, whether within the said twenty miles or not. But this section shall not extend the time for such seizure beyond thirty days.

Rev. Stat., c.
160, s. 20,
amended.

8. Section 20 of said Act is amended by adding the following sub-section thereto:—

(9) A detailed description of any extension or improvement of the works or of any new works proposed to be undertaken in the following year, together with an estimate of the cost thereof.

Rev. Stat., c.
160, s. 59,
amended.

9. Section 59 of said Act is amended by adding the following sub-section thereto:—

(2) In case any extension or improvement of the works or any new works proposed to be undertaken are, after submission to the municipal council or councils as the case may be as provided in section 4 and after the time limited by section 9 of this Act, approved by the Commissioner of Crown Lands, he shall report such approval to the Lieutenant-Governor who may thereupon direct the issue of supplementary letters patent authorizing the construction of such extension or improvement or such new works as the case may be.

Rev. Stat.,
c. 160, s. 40,
repealed.

10. Section 40 of *The Timber Slide Companies' Act* is hereby repealed and the following substituted therefor:

Ratio of tolls.

40. The tolls to be collected upon different kinds of timber shall bear to each other the following proportions, viz.:

	\$	cts.
Red and white pine, tamarac, spruce and hemlock, square or waney board.....	per piece	0 1
Oak, elm and other hardwood, square or flatted or waney board.....	"	0 1½
Spars.....	"	0 3
Masts.....	"	0 5
Sawlogs, 17 ft. and under.....	"	0 1/6
Red and white pine, tamarac, spruce and hemlock, round or flatted, over 17 ft. and under 25 ft. long.....	"	0 1/4
Red and white pine, tamarac, spruce and hemlock round or flatted, 25 ft. to 35 ft. long.	"	0 1/3

	\$	cts.
Red and white pine tamarac, spruce and hemlock, round or flatted, 35 ft. and upwards in length.....	per piece	0 1/2
Sawed lumber, board measure.....	per 1,000 ft.	0 3
Staves.....	"	0 15
Cords of wood, shingle bolts and other lumber.....	per cord of 128 feet }	0 2
Railway ties other than cedar, in 8 or 16 ft. lengths.....	per l'h of 8 ft.	0 1/18
Cedar, round or flatted, 8 ft. long or under.....	per piece	0 1/24
Cedar, round or flatted, over 8 ft. and under 17 ft. long.....	"	0 1/12
Cedar, round or flatted, over 17 ft. and under 25 feet long.....	"	0 1/8
Cedar, round or flatted, over 25 ft. and under 35 ft.....	"	0 1/5
Cedar, round or flatted, 35 ft. and upwards.....	"	0 1/3

ONTARIO STATUTES, 1890.

CHAPTER 7.

An Act respecting the Culling and Measurement of
Saw-Logs cut upon Crown Lands.

HER MAJESTY, by and with the advice and consent of the
Legislative Assembly of the Province of Ontario, enacts
as follows:—

1. This Act may be cited as "*The Ontario Cullers' Act.*" Short title.
2. The expression "saw-logs" includes all logs of pine of "Saw-logs,"
whatever length, whether round or flatted. meaning of.
3. The expression "culler" includes all persons employed "Culler,"
or engaged in measuring saw-logs cut on Crown Lands. meaning of.
4. It shall be incumbent upon all persons cutting saw-logs Persons cut-
on Crown Lands to cause to be kept in each shanty, camp, or ting saw-logs
lumbering establishment such records and books as may be to keep record
required by the Crown Lands Department, which records and and transmit
books shall be open at all times to the inspection of any Crown same to Crown
timber agent, Crown timber ranger, or other officer of the Lands Depart-
ment.
Crown Lands Department, and shall at the end of the season
be attested under oath by the person who has made the entries
therein and handed to the officer of the Department authorized
to receive the same.

Examination
of applicants
for licenses to
cull and mea-
sure saw-logs.

5. The Lieutenant-Governor in Council may from time to time appoint a board or boards of examiners, each consisting of three skilled persons, any two of whom shall form a quorum, whose duty it shall be to examine and test the ability and knowledge of all applicants desiring to be licensed to cull and measure saw-logs cut on Crown lands ; and to perform such other duties as may be assigned to them by the Lieutenant-Governor in Council.

Oath of
examiner.

6. Each examiner, before entering on his duties, shall take and subscribe before a justice of the peace an oath to the following effect :

That I, _____, will act as examiner of cullers to the best of my ability and knowledge, and will conduct the examinations without fear, favour or affection, and recommend for licenses only those persons who have satisfactorily proved their fitness to discharge the duties of culling and measuring saw-logs. (Sd).

which affidavit shall be transmitted to the Commissioner of Crown Lands to be filed.

Fees of
examiners.

7. The Lieutenant-Governor in Council may authorize the payment to each member of such boards of examiners, as remuneration for his services, a sum not exceeding \$4 per day while actually employed as such examiner.

Sittings of
board of ex-
aminers.

8. The boards of examiners shall sit at such places and on such dates as may be fixed by the Commissioner of Crown Lands, and shall examine all candidates who may present themselves before them, and at the close of the examination, or as soon after as may be, shall transmit to the Commissioner of Crown Lands the names of such of those as they believe are trustworthy and of good character, and who have passed a satisfactory examination, and whom they recommend as having the requisite skill and knowledge to warrant their being licensed as saw-log cullers.

Notice to be
given of sit-
tings of board.

9. The Commissioner of Crown Lands shall cause to be addressed to all licensees and owners of timber limits on or before the 1st of January next after the passing of this Act, a printed notice of the place at which it is proposed to hold examinations, and the date thereof, and shall give such further notice by advertisement in the public press, or otherwise, as he may deem expedient.

Candidates to
give notice
and pay fees.

10. All persons intending to present themselves for examination as cullers shall on or before the first day of May in any year give notice in writing to the Commissioner of Crown Lands of such intention, and their post office address, and shall pay into the Department of Crown Lands the sum of \$4 as an examination fee.

11. The Commissioner of Crown Lands may issue a license Licenses to cullers. to any person reported by a board of examiners as competent to perform the duties of culler, such licenses to be in the form following, and to remain in force until cancelled :—

To _____ of the (*County or District*) of _____
By virtue of authority vested in me by Act of the Legislative Assembly
Victoria, 1890, chapter _____ entitled "An Act relating to the culling and measurement of saw-logs upon Crown Lands." I hereby authorize you to act as culler of saw-logs which may be cut on Crown lands within the Province of Ontario, such authority to continue in force during pleasure.

Given under my hand this _____ day of _____ in the year
of our Lord A.D. 18 _____

(Sgd.)

Commissioner of Crown Lands.

12. Before such license is issued each successful applicant Oath of applicant for license. shall take the following oath before a justice of the peace, a notary public or a commissioner of the High Court of Justice:—

I, _____, do solemnly swear that I will, while acting as licensed culler, without fear, favour or affection, and to the best of my judgment and skill, correctly measure all saw-logs cut on Crown Lands which I may be employed to measure, and make true returns of the same to the Department of Crown Lands, or its agents.

Which oath of office shall be filed in the Department of Crown Lands.

13. From and after the passing of this Act no person other than a licensed culler shall make measurement of saw-logs cut upon Crown lands for the purposes of a return to the Crown Lands Department; except that where it is made to appear to the satisfaction of the Commissioner of Crown Lands that the services of a licensed culler are not procurable, he may issue a special permit to any trustworthy and skilled person to act as culler upon his taking the prescribed oath, but such permit shall not extend beyond the 1st day of July next following its date. Unlicensed persons not to make measurements.

14. It shall be the duty of every culler to measure fairly and correctly to the best of his skill, knowledge and ability, Duties of cullers. all saw-logs which he may be employed to measure, making only such deductions as are necessary to allow for the rots or other defects, and to enter in his book of record, for the purpose of return to the Crown Lands Department, what he believes to be the proper contents of the log, noting also the number of saw-logs rejected as worthless, commonly called culls.

15. Upon all logs culled or rejected as wholly worthless he shall write the word "cull" in plain letters, but he shall not mark "cull" upon any log which is intended to be hauled to any river, lake or stream for the purpose of being driven to a mill. Culled logs to be marked.

Inspection of
books and
records of
cullers.

16. All licensed cullers shall submit their books and records of measurement for the inspection of any Crown timber agent, Crown timber ranger, or other officer of the Crown Lands Department when called upon so to do, and shall give all information asked for if in their power, and furnish any statements or copies of statements which the Department or its agents may from time to time require.

Returns to be
made by cul-
lers.

17. At the end of the season it shall be the duty of every culler to make a sworn return upon forms supplied by the Crown Lands Department or its agents, which return shall show the number of pieces measured and accepted by such culler, and their respective lengths and diameters, and also the number of pieces rejected as worthless.

Effect of can-
cellation of
license.

18. Should any culler neglect or refuse to carry out and obey the provisions of this Act, or any regulations now in force or to be made under it, the Commissioner of Crown Lands may cancel such culler's license and he shall not thereafter be eligible to cull or measure saw-logs cut upon Crown lands, and if he does so he shall be liable to a penalty of not less than \$10 nor more than \$50 to be recovered with costs on summary conviction before any stipendiary magistrate, police magistrate or two justices of the peace, and on default of payment or distress, he shall be imprisoned in the common gaol of the county or district for a period not less than one month nor more than three months, in the discretion of the court.

Penalty for
making im-
proper meas-
urements or
false returns.

19. Should any culler wilfully undermeasure or improperly cull and reject any saw-logs, or make a false return for the purpose of deceiving or defrauding the Province, such culler's license shall be revoked, and he shall not thereafter be permitted to act as culler under this Act; and in addition he shall be subject to a penalty of not less than \$20 nor more than \$100, to be recovered with costs on summary conviction before any stipendiary magistrate, police magistrate, or two justices of the peace, and on default of payment he shall be imprisoned in the common gaol of the county or district for a period of not less than one month nor more than three months, in the discretion of the court.

Act not to
affect regula-
tions under
Rev. Stat. c.
28.

20. This Act shall not be taken or construed as abrogating any regulations made under *The Act respecting Timber on Public Lands*, except in so far as any such regulations may be inconsistent herewith.

13th section
not to apply
in certain
cases.

21. The 13th section of this Act shall not apply to the operations of any lumber company, person or firm, whose gross annual output is under 250,000 feet, board measure.

Commence-
ment of Act.

22. This Act shall not come in force until a day to be named by the Lieutenant-Governor by his proclamation.

ONTARIO STATUTES, 1889.

CHAPTER 16.

An Act respecting damage to lands by flooding in the new Districts.

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:—

1. Where it is claimed that any incorporated company which has had conferred upon it the powers authorized by *The Timber Slide Companies' Act*, or similar powers, or that any incorporated lumber company, or any mill owner or other person engaged in lumbering has caused damage to the land of any person by overflowing the same for the purpose of driving logs or timber or a sawmill, and it is alleged that such damage exceeds the sum of \$20, but no greater sum than \$500 is claimed therefor, such person may apply to the Judge of the District or County Court, or to the Stipendiary Magistrate (if any), to determine the claim under the provisions of this Act.

Damages in respect of which applications may be made.

- (b) When the sum claimed for damages does not exceed \$100 the application shall be made to the Stipendiary Magistrate, if there is one, and where the claim exceeds \$100, or where there is no Stipendiary Magistrate, the application shall be made to the Judge of the County or District Court.
- (c) When an application is made to the County or District Judge and the damages awarded do not exceed \$100, all additional costs occasioned by the application having been made to the Judge instead of to the Stipendiary Magistrate shall be paid by the applicant, and the Judge shall, in the award or by a subsequent certificate, fix the same and direct their payment.

2. The application may be in the form (as nearly as may be) provided by schedule A to this Act, and shall be delivered or mailed by registered letter to the said Judge or Magistrate, and there shall be attached thereto an affidavit sworn before a Justice of the Peace, or before a commissioner or other person authorized to take affidavits in the High Court, to the effect that the statements made in the application are true. A notice giving a post office address to which any notice not requiring action in less than eight days may be sent to the persons entitled thereto shall be endorsed on the application.

Form of application.

Service of
application.

3.—(1) A copy of the application, endorsed with a notice requiring the company to answer the same within 21 days, shall be served on the defendant or on the president, treasurer, secretary or manager of the company, or upon an agent of the company having the charge of a branch of its business within the county or district, or upon some person who might be served with a writ of summons for the company, issued out of the High Court.

(2) The defendant may at any time before the petition is left with the Judge or Magistrate or served, tender to the complainant a sum of money in satisfaction of the damages complained of, and if the Judge or Magistrate finds the said tender to have been sufficient he shall so award, and direct the costs to be paid by the complainant.

(3) The defendant may pay into Court, with his answer or at any subsequent time, upon notice to the complainant, a sum of money by way of compensation or amends, and if the sum is found to be sufficient the defendant shall pay the complainant costs up to the time of the payment into Court of such sum, and the necessary costs of obtaining the same from Court, and the subsequent costs shall be in the discretion of the Judge or Magistrate. The Court in this sub-section mentioned shall be that Division Court of the district or county within which the flooded lands, or some portion thereof, are situate.

Service of
answer.

4.—(1) The answer shall be delivered or mailed by registered letter to the Judge or Magistrate, and a copy thereof to the applicant, within the said time. The answer shall give a post office address, to which any notice not requiring action in less than eight days may be sent. At any time after the expiry of the time mentioned in the notice endorsed on the copy of the application served, the Judge or Magistrate may appoint a day and place for the hearing, and may subsequently make other appointments as shall be required. In fixing the time for the hearing, the Judge or Magistrate shall in so far as is practicable, have in view the convenience of both parties and the possibility of their being able at the particular season of the year conveniently to procure the attendance of necessary witnesses.

Place and
time for the
hearing.

(2) The Judge or Magistrate shall have all the powers of amendment of a Judge of the High Court or of a Judge of Assize and may, when, in his opinion, it is necessary in order to do complete justice add all necessary parties to the proceeding, upon such terms as to him shall seem proper.

Inspection of
land by judge.

5.—(1) The Judge or Magistrate may personally visit the land in question, before or after the hearing, and may act in part or otherwise upon his own inspection, judgment and

general knowledge, as well as upon any evidence adduced before him, and may take evidence on oath to be administered by him.

(2) The Judge or Magistrate in deciding on compensation shall take into consideration the increased value (if any) that has been given to any lands of the complainant adjoining or contiguous to the works which have caused the injury by reason of the construction of such works, and shall deduct such increased value (if any) from the amount found in favour of the complainant.

(3) The Judge or Magistrate shall take full notes of the oral evidence given before him, and file all documentary evidence or a copy thereof; and in case he proceeds partly on a view or any knowledge or skill possessed by himself, he shall also put in writing a statement thereof sufficiently full to allow the Court to form a judgment of the weight which should be attached thereto.

6. The Judge or Magistrate shall make his award in writing Award. in respect of the matter; and if the award is in favour of the complainant, he shall state whether it is for past damage only, or covers all future damage which may be sustained by reason of the land being flooded up to a certain height, therein stated and in some way defined.

7. If the award covers future damage it may, after pay- Registration of award. ment of the amount awarded, be registered in the proper registry office upon the order of the Judge or Magistrate. The award shall be final and conclusive between the parties except Award to be final. where it is otherwise hereinafter provided.

8. The Judge or Magistrate shall, in the award, give such Costs. directions as to the payment of costs as he thinks fit, and shall either by the award or by a subsequent certificate, determine the amount of costs to be paid.

9. Any party to the proceedings may obtain from any Attendance of witnesses. Division Court of the district or county a subpoena requiring the attendance of any person as a witness before the Judge or Magistrate, at the time and place appointed to give evidence; and the non-attendance of such person, or his refusal to be sworn or to give evidence, shall be punishable in the same manner as if the application were a suit pending in the said Court, provided always that the witness's allowance for his expenses in accordance with the County Court scale has been tendered to him.

10.—(1) Every award or certificate made or given under Enforcing award. this Act may be entered and enforced as a judgment of any Division Court in the district or county within the limits of which Division Court the property in respect of which the

award is made, or any of it is situate, as a debt of the person or company thereby directed to pay any sum or sums of money.

(2) The said award may be made a judgment of a Division Court by filing the original or a sworn copy thereof in the office of the clerk of such Division Court and the same shall be entered in the books of the Court by the clerk and shall thereupon become and be a judgment of said Court. The clerk shall thereupon, by prepaid registered letter, immediately notify the party against whom such judgment is entered, or his solicitor or agent, where he has appeared by a solicitor or agent, of the fact and of the date and amount of such judgment. The date and fact of mailing such registered letter, shall be forthwith entered by the clerk, in the book in which the judgment is entered.

(3) In case the judgment is so entered for damages in excess of \$100, the clerk shall add to the notice a statement that if the party against whom such judgment is entered is dissatisfied therewith, he may within fourteen days from the date of the entry of judgment apply to the Judge or Magistrate who made the award to set aside the said judgment and award and for a rehearing or a new trial (Schedule C) and the proceedings in respect of any such application may be the same as upon an application for a new trial in a Division Court.

(4) No execution shall issue unless otherwise directed by the Judge or Magistrate until after the expiration of fourteen days from the date of mailing such registered letter and until after any application for a rehearing or a new trial shall have been disposed of, when such application is made.

(5) When any such judgment for damages is in excess of \$200, either party may appeal from the judgment or decision of the Judge or Magistrate upon the application for a rehearing or new trial to a single Judge of the High Court of Justice at the weekly sittings at Osgoode Hall, and the proceedings in and about such appeal shall be the same as nearly as may be as an appeal from the judgment or decision of a Judge of the County Court under Chapter 47 of the Revised Statutes of Ontario, 1887. The complainant shall have the same right to apply for a rehearing or new trial as the party against whom the judgment is entered when his claim exceeds \$100 and the same right of appeal to the High Court when the claim exceeds \$200, and the Judge or Magistrate certifies that in his opinion the claim is *bona fide* in excess of \$100 or \$200, as the case may be.

Payment of
judge's
expenses.

11. The Judge or Magistrate may by the award direct that the expenses and disbursements actually incurred by him in and about the hearing of the complaint and the making of the award shall be paid by either or any of the parties at the time of the delivery of the award and may further direct that any

sum so paid shall be added to or deducted from any other costs or sum by the award ordered to be paid.

12. Where the flooding occurs upon the lands of several persons from the construction of the same works, dam or dams, several persons may join as complainants in the same petition where the damage of each does not exceed the sums respectively mentioned in the first section, though in the aggregate they may exceed such sums although in respect of different parcels of land. In such case the lands damaged shall be separately described in the petition, and the owners stated of the respective parcels and the amount of the claim of each person shall also be stated. The Judge or Magistrate may, when there are several petitions upon the application of the defendants, consolidate those within his jurisdiction, and may order the hearing thereof in such manner as in his opinion will best facilitate the ends of justice and cause the least trouble and expense.

Joinder of claims.

In either of the foregoing cases there shall be a separate award as to the claim of each person or in each suit as the case may be, and the costs may be apportioned as the Judge or Magistrate may think just.

Each award shall in such case, when filed with the clerk as is hereinbefore provided, form a separate judgment, and the execution shall be adapted to the proceedings, and the form thereof may be settled by the Judge or Magistrate when necessary.

If the petition or complaint is dismissed, or dismissed as to certain of the complainants, the award need not be separate as to those in respect of whom it is so dismissed.

13. Where the sum claimed does not exceed \$20, the action for damages in respect of the injuries in section 1 mentioned may be brought in the Division Court, which shall have jurisdiction to hear, try and dispose of the case, notwithstanding the question of any title to lands may be raised; but the Court shall not, in any proceedings under this section, determine the matter of title to land or to any easement or privilege in connection therewith, nor shall the judgment or decision in any case under this section conclude the parties upon any question except the damages by reason of the flooding aforesaid.

When action may be brought in Division Court.

14. Where, in any proceedings under this Act (except under section 13), the title to any land or the right to any easement or privilege is really in controversy and is not raised for the purpose of ousting the jurisdiction of the Judge or Magistrate, and the question of compensation is, in the opinion of the Judge or Magistrate, involved in such question and cannot in his opinion be determined without the determination of the question of title or of such right as aforesaid, further proceedings under this Act shall not be had or taken, but either party may obtain the certificate of the Judge or Magistrate stating

Removal of proceedings into the High Court.

that such question of title or right as aforesaid is involved in the determination of the proceedings, and he shall thereupon be entitled to an order from a Judge of the High Court, removing the proceedings into the latter Court, where they shall be disposed of as the Judge or Court may direct.

When the Judge or Magistrate proceeds, notwithstanding the question of title or right as aforesaid is raised, the award or judgment shall not conclude the parties upon such question of title or right, but only in respect of the damages by reason of the flooding aforesaid.

Defects of
form not to
invalidate
proceedings.

15. No proceeding under this Act shall be rendered void or invalid by any want of form, or by reason of any defect or inaccuracy therein.

Limitation
of actions.

16. All proceedings under this Act in respect of damage or injury to land hereafter flooded shall be commenced within six months next after the time of the supposed damage, or if there be continuation of damage, then within six months next after such damage ceases, or in respect of damage or injury heretofore sustained within six months after the passing of this Act and not afterwards. Nothing herein contained shall authorize proceedings under this Act to recover damages sustained for a longer period before the passing of this Act than three years.

Application
of Act.

17. This Act shall apply only to the Districts of Muskoka, Parry Sound, Nipissing, Algoma, Thunder Bay and Rainy River, to the Provisional County of Haliburton and to the Electoral Districts of East Victoria, East Peterboro', North Hastings, North and South Renfrew.

Statute of
limitations to
apply.

18. The Statute of Limitations shall apply to proceedings under this Act.

Certain Acts
and grants not
affected.

19. Nothing in this Act contained shall affect the provisions of Chapter 120 of the Revised Statutes of Ontario, 1887, intituled "*An Act for protecting the Public interest in Rivers, Streams and Creeks*," nor of any private Act; nor of any reservation or condition in any patent or grant from the Crown.

SCHEDULE A.

FORM OF APPLICATION.

In the matter of (*name here the complainant*), complainant,
and (*name here the company or person complained of*)
defendant.

To His Honour _____, Judge or Stipendiary
Magistrate of the District (*or County*) of _____.

The petition of _____, of _____ in the District (*or County*) of _____, respectfully sheweth, that your petitioner is the patentee (*or the locatee*) of (*describing the land.*)

That the above named defendant constructed a dam and flooded (*fourteen acres*) of the said land, and thereby has done damage to your petitioner to the extent of \$300.

That the following are the particulars of the said damage:—

Fourteen acres of land rendered useless..\$240 00
Value of crop of oats in the land..... 60 00

\$300 00

(*or as the case may be*).

The complainant is willing to grant to the company the right to flood the said fourteen acres rendered useless (*or as the case may be*).

(*Where a Solicitor is employed, say*) Service of any notice or other paper not requiring action in less than eight days may be made upon me by mailing the same by registered letter, addressed to my Solicitor, A. B., at (*name of Post Office, with any more particular address desired.*)

(*Where no Solicitor is employed, say*) Service of any notice or other paper not requiring action in less than eight days may be made upon me by mailing the same by registered letter, addressed to me at (*name of Post Office with any more particular address desired.*)

The complainant prays that his claim may be heard and disposed of under the provisions of *The Act respecting damage to lands by flooding in the new Districts.*

Dated this _____ day of _____ 18 ____.

JAMES THOMPSON, in person.
Or JAMES THOMPSON,
by A. B., his Solicitor.

SCHEDULE B.

FORM OF SUBPENA.

{ Seal. }

Ontario. } To C. D.
 District of } You are hereby required to appear in your
 TO WIT: } proper person before Judge of the
 District (or County) Court of the District (or
 County) or before the Stipendiary Magistrate of
 at in the Village of on the day
 of , 18 , at o'clock in the noon, being the
 time and place appointed by the said Judge or Magistrate for
 hearing the application of *James Thompson* for damages
 claimed by him from the (*naming the company or person com-
 plained of*) under *The Act respecting damage to lands by
 flooding in the new Districts*, and that you then and there
 testify to all and singular those things which you know in res-
 pect of the matters in question in the said application.

Given under the seal of the Division Court of the Dis-
 trict (or County) of at the day of ,
 18 .

E. F..
 Clerk.

NOTE.—Insert a *duces tecum* where desired.

SCHEDULE C.

In the matter of complainant,
 and defendant.

Take notice that there was this day duly filed in this Court
 the award of the Judge of or of the Stipendiary
 Magistrate of in the above matter, and that the
 same was thereupon duly entered of judgment against the
 (*defendant*) for \$ damages and \$ costs.

(When the judgment debt, exclusive of costs exceeds \$100 add)

If you are dissatisfied with such judgment you may within
 14 days from this date apply to the said (Judge or Magistrate)
 for a rehearing or for a new trial.

Yours, etc.,

 Clerk of the Division Court of
 the District or County of

Dated at this day of
 To (state name and post office address.)

CROWN TIMBER REGULATIONS.

DEPARTMENT OF CROWN LANDS,
TORONTO, 16th April, 1869.

Notice is hereby given that the Crown Timber Regulations established or sanctioned by Order in Council, dated 12th June, 1866, and which are published in the *Canada Gazette* of 23rd June, 1866, have been superseded, and that the following regulations have been sanctioned and established under Chapter twenty-three of the Consolidated Statutes of Canada, by His Excellency the Lieutenant-Governor in Council, by order bearing date this day, to be in force on and from this date ; and that by the said Order, timber licenses and renewals thereof, are from and after this date to be granted, subject to the said regulations, and the conditions and restrictions therein set forth in addition to the requirements of the said Statute.

S. RICHARDS,
Commissioner of Crown Lands.

Established under Chapter twenty-three of the Consolidated Statutes of Canada, by order of His Excellency the Lieutenant-Governor in Council, dated 16th April, 1869.

1st. The Commissioner of Crown Lands may, at his discretion, cause the limit lines of any timber berths under license, which have not been already surveyed, to be properly surveyed and run, the costs of such survey to be paid by the holder of the license ; and where two or more licensees are interested in the survey, the Commissioner shall determine what portion of the costs of the survey shall be paid by each, and such costs of survey shall be a charge upon the timber berth, to be paid with the ground rent before renewal of the license.

2nd. The Commissioner of Crown Lands, before granting any licenses for new timber berths in the unsurveyed territory, shall, as far as practicable, cause the section of country where it is intended to allot such berths, to be run out into townships, and each township when so surveyed, shall constitute a timber berth, but the Commissioner of Crown Lands may cause such townships to be subdivided into as many timber berths as he may think proper.

3rd. The berths or limits when so surveyed and set off, and all new berths or limits in surveyed territory shall be explored and valued, and then offered for sale by public auction at the upset price fixed by such valuation, at such time and place, and on such conditions, and by such officer, as the Commissioner of Crown Lands shall direct by public notice for that purpose, and shall be sold to the highest bidder for cash at the time of sale.

4th. All forfeited timber berths may be offered for sale on the second Tuesday in August in each year, by public auction, at such upset price, and at such place as the Commissioner of Crown Lands may fix and

appoint by public notice, or at such other rate as he may fix by such notice, and shall be awarded to the highest bidder, making payment at the time of sale, but should the said timber berth not be then sold, the same may be granted to any applicant willing to pay the said upset price and ground rent, or on such other terms as the Commissioner of Crown Lands may direct.

5th. License-holders who shall have complied with all existing regulations, shall be entitled to have their licenses renewed on application to the Commissioner of Crown Lands, or to such local agent as he may appoint, for that purpose.

6th. The Commissioner of Crown Lands shall keep a register of all licenses granted or renewed, and of all transfers of such licenses, and a copy of such register, with a plan of the licensed limits, shall be kept by the crown timber agent of the locality, and open to public inspection.

7th. All transfers of timber berths shall be made in writing, but shall be subject to the approval of the Commissioner of Crown Lands, to whom they shall be transmitted for approval or rejection, and they shall be valid only from the time of such approval, to be expressed in writing.

8th. Timber berths are to be described in new licenses as "not to interfere with prior licenses, existing or to be renewed in virtue of regulations." When the description of any berth or boundary, as given by any license, clashes with the description of any other licensed berth or territory, the license of more recent origin (tracing back only to the time when such license or any previous license, of which it is a renewal, was first granted), shall give way, and the Commissioner may amend or cancel such license wholly or in part, and substitute another in place thereof, so as to correct the description of the berth or limit intended to be licensed; and in all cases where any license has issued in error or mistake, or is found to be inconsistent with any other license, or inconsistent or incompatible with the regulations under which it was granted, the Commissioner of Crown Lands may cause it to be cancelled or amended, or he may refer all matters in dispute with reference to the boundaries and position of timber limits to arbitration, each of the contending parties to choose one arbitrator, and the Commissioner of Crown Lands shall appoint an umpire, naming a day on or before which the award of such arbitrators or of such umpire shall be made and delivered to the parties, and such award shall be binding on them.

9th. Timber cut on limits for which license has been suspended or held in abeyance, shall be considered as having been cut without authority, and treated accordingly.

10th. Occupants, locatees or purchasers of public lands, who have not completed all the conditions of sale or location, shall not unless under Settlers' License, or for clearing, fencing or building purposes on the said land, be permitted to cut timber or logs thereon, or to dispose of it to others. Persons found doing so shall be subject to the penalties established by law, for cutting timber on the public lands without authority.

11th. All timber licenses are to expire on the 30th April next, after the date thereof, and all renewals are to be applied for and issued before the first of July following the expiration of the last preceding license, in default whereof the right to renewal shall cease, and the berth or berths shall be treated as forfeited.

12th. No renewal of any license shall be granted unless or until the ground rent, and all costs of survey, and all dues to the Crown on timber, saw-logs or other lumber cut under and by virtue of any license, other than the last preceding, shall have been first paid.

13th. All timber berths or limits shall be subject to an annual ground rent of \$3 per square mile (per O. C. 27th April, 1887), payable in advance before the issuing of any original license or renewal.

14th. All timber, saw-logs, wood or other lumber, cut under any license now in force, or under any license which may be hereafter granted, shall be subject to the payment of the following Crown dues, that is to say :—

Black walnut and oak, per cubic foot.....	\$0 03
Elm, ash, tamarac and maple, per cubic foot	0 02
Birch, basswood, cedar, buttonwood and cottonwood, and all boom timber, per cubic foot	0 01½
Red and white pine timber (per O. C. 27th, April, 1887), per cubic foot	0 02
All other woods.....	0 01
Basswood, buttonwood and cottonwood, saw-logs, per standard of 200 feet board measure.....	0 15
Red and white pine saw-logs and boom timber per standard of 200 feet B. M., (per O. C. 27th April, 1887).....	0 20
Walnut, oak and maple saw-logs, per standard of 200 feet board measure	0 25
Hemlock, spruce and other woods, per standard of 200 feet board measure	0 10
All unmeasured culled saw-logs to be taken at the average of the lot, and to be charged for at the same rate.	
Staves, pipe, per mile	7 00
do West India, per mile	2 25
Cordwood (hard) per cord.....	0 20
do (soft) do	0 12½
Hemlock tan bark, per cord.....	0 30
Railway timber, knees, etc., to be charged 15 per cent. <i>ad valorem</i> .	

15th. The duties on timber shall be charged upon the quantities shewn by the specification of measurement at the office of the Supervisor of Cullers at Quebec, or that of the Deputy Supervisor of Cullers at Sorel or Montreal, or by other reliable measurement, but where such actual measurement cannot be obtained, each stick of white pine timber shall be estimated as containing 70 cubic feet, red pine as containing 38 cubic feet, oak 50 feet, and elm 45 feet, and all other wood as containing 34 cubic feet.

16th. All Licensees or occupants of timber berths shall furnish through themselves, their agents, cullers and foremen, to such agent or agents as the Commissioner of Crown Lands may appoint for that purpose, and at such time and place as such agent or agents may require, satisfactory proof upon oath as to the exact locality where all the timber, saw-logs and other lumber in his or their possession were cut, giving the number of pieces and description of timber, saw-logs and other lumber cut by themselves and others to their knowledge upon each of the timber berths held or occupied by him or them respectively, designating what quantity, if any, had been cut on settlers' lands, giving the names of such settlers, the name of the Township, and the number of each lot and concession, exhibiting at the same time for the inspection of such agent or agents, the books of count and measurement of such timber, saw-logs and other lumber under his or their control respectively ; and shall moreover furnish such agent or agents all required information and facilities to enable him or them to arrive at a satisfactory determination as to the quantity and description of timber, saw-logs and other lumber made by him or them, or held in his or their possession respectively, on which Government dues are chargeable ; and in the event of such agent or agents deeming it expedient to cause such timber, saw-logs and other lumber to be counted or measured, the said licensee or occupier of such timber berth, and his or their agents, cullers and foremen shall aid and assist in such count or measurement, but should such licensee or occupier, or his or their agents, fail to comply with these conditions, such licensee shall forfeit all right to a renewal of his license, and the berth and limit shall become vacant. And to enable persons who sell their timber under Settlers' License to obtain their refund of dues, and timber cut on Patented Lands to pass duty free, it will be necessary for the parties interested to prove on oath taken before such agent or agents, and to his or their satisfaction, the number of pieces and description of timber and saw-logs cut on each lot respectively. And in the event of such proof being deemed unsatisfactory, the said agent or agents may determine the same by causing a strict count of the stumps to be made, and then certifying according to such count.

17th. The Commissioner of Crown Lands, or any authorized agent, shall at all times have free access to and be permitted to examine the books and memoranda kept by any licensee shewing the quantity of lumber in board measure sawn by him from logs cut on his timber berth or berths, and failing to produce such books and memoranda when required so to do, will subject such licensee to a forfeiture of his right to a renewal of his License.

18th. When any license-holder is in default for, or has evaded the payment of dues to the Crown on any part of his timber or saw-logs, such dues may be levied on any other timber or saw logs belonging to such defaulter, cut under license, together with the dues thereon.

19th. Before moving any raft or parcel of timber, lumber or saw-logs from the Agency in which it has been cut, the owner or person in charge thereof, shall report the same to the Crown Timber Agent, making, if required declaration upon oath, as to where the said timber was cut, the number of pieces and description of each kind of wood contained in such

raft or parcel of timber, and the number of cribs, stating at the same time the number and description of pieces cut on private lands, also, on lands under Settlers' License, giving the names of the owners or licensees of such land, with the names of the Townships, and number of each lot and concession, and should such Crown Timber Agent not be satisfied with the correctness of such report, he shall cause a strict count to be made of the timber in such raft; and on being satisfied of the correctness of such report or count, the Crown Timber Agent may grant a clearance, in due form, for such raft, stating the number of pieces and description of timber contained therein, distinguishing the timber cut on private lands and under settler's license, from that cut on the Crown domain.

20th. The owner or holder of any such raft or parcel of timber shall, within twenty-four hours after the same shall have arrived at its destination at Quebec, Sorel, Montreal, or other port of sale or shipment, report the arrival of such raft to the Collector of Crown Timber dues, or if at Sorel or Montreal to the Deputy Supervisor of Cullers, and should the said raft be found by the specification of measurement to contain a greater number of pieces of timber than is noted in the clearance, the surplus number of pieces, if not satisfactorily explained, shall be held as having been cut on Crown lands without authority, and subject to the payment of dues accordingly.

21st. Parties omitting to obtain their clearance at such agency, or omitting to report the arrival of such raft at its destination as above mentioned, may be refused further license, and may be subject to forfeiture of the timber for evasion of regulations, as provided in Cap. 23 of the Consolidated Statutes of Canada.

22nd. Persons evading or refusing the payment of timber dues, or the final settlement of bonds or promissory notes for the payment of such dues, or in default with the Crown Timber office, or agent; also, persons taking forcible possession of disputed ground before obtaining decision in their favour, and persons refusing to comply with the decision of arbitrators or of the umpire, as provided by the 8th section of these regulations, or with the regulations established by Order in Council, or who forcibly interrupt surveyors in the discharge of their duty, shall be refused further licenses, and their berths shall be forfeited at the expiration of the then existing license.

23rd. Dues of all kinds on timber cut under license, remaining unpaid on the 30th November following the season in which it was cut, shall be subject to interest from that date, but without prejudice to the power of the Crown to enforce payment of such outstanding dues at any time the Commissioner of Crown Lands may think proper.

FORM OF A TIMBER LICENSE.

BY AUTHORITY of Chapter 28 of the Revised Statutes of Ontario, and the Crown Timber Regulations dated the 16th day of April, 1869 and for and in consideration of the payments made and to be made to Her Majesty: I DO HEREBY GIVE UNTO and unto Agents or

Workmen, full power and License to cut every description of timber on lands or lots unlocated and unsold at the date of this License, or sold or located during the time this License is in force, and pine trees on lands or lots sold under Orders in Council of 27th May, 1869, or sold or located under the Free Grants and Homesteads Act of 1868, or amendment of the said Act, by Chapter four of the Statutes of Ontario of 1880, and pine and cedar trees, when reserved, on lots sold under Order in Council of 3rd April, 1880, prior to the date of this License, and pine trees on lots patented under said Chapter four, or patented as mining lands, under the General Mining Act of 1869, upon the location described on the back hereof by and to hold and occupy the said Location to the exclusion of all others, except as hereinafter mentioned from to Thirtieth of April, 18 , and no longer; with the right of conveying away the said timber through any ungranted, uncleared, or waste lands of the Crown :—

And by virtue of this License, the said Licensee ha right by the said Statute to all timber cut by others during the term of this License in trespass on the ground hereby assigned, with full power to seize and recover the same.

But this License is subject to the following conditions, viz.:

To the withdrawal therefrom of lots located or sold under the Free Grants and Homesteads Act of 1868, prior to the passing of Chapter 4 of the Statutes of Ontario of 1880, and for which patent may be granted on the ground that five years had elapsed from the date of such location or sale, and that the conditions of settlement had been complied with prior to Thirtieth April preceding the date or issue of the License.

That any person or persons may at all times make and use roads upon, and travel over the ground hereby licensed.

That nothing herein shall prevent any person or persons from taking from the ground covered by this License, standing timber of any kind (without compensation therefor) to be used for the making of Roads or Bridges or Public Works, by or on behalf of the Province of Ontario, the authority of the Department of Crown Lands having first been obtained.

That persons settling under lawful authority or title within the location hereby licensed, shall not in any way be interrupted in clearing and cultivation by the said Licensee , or any one acting for or by permission.

That the Commissioner of Crown Lands, under Order in Council of 27th April, 1885, may at any time during the currency of this License cancel the right to cut timber other than pine upon any lots, included in the description in this License, which may have been sold or located subsequent to the date hereof, or upon any lots in said description which may have been squatted upon with the *bona fide* intention of location or purchase.

And further : under condition that the said licensee or representatives shall comply with all regulations that are or may be established by Order in Council, and shall submit all the timber, saw-logs or other lumber cut under this License to be counted or measured, and settle for the duties chargeable thereon, when required by me or any officer there-

unto authorized,—otherwise the said timber will be forfeited to the Crown, and the said Licensee be subject to such other penalties as the Act provides.

GIVEN UNDER MY HAND, at Toronto, the day of , in the year of our Lord, one thousand eight hundred and eighty- in duplicate.

Amount payable for this License :—

Ground Rent.....\$

Bonus.....\$

Interest\$

\$

Commissioner.

.....

And every Government Road allowance or parts thereof embraced within the boundaries of the tracts or parcels of land above mentioned or described ; and all such portions of any Government Road allowance as border upon any tract, lot or parcel of land above mentioned or described ; and lie between the side lines or between the front and rear lines, or between a side line and a front or rear line, or between different parts of any line of said tracts, lots or parcels of land, produced across such Road allowance ; provided, however, that when any portion of a Road allowance is found to be included in any two Licenses covering lands on opposite sides of such Road allowance, then each License is to extend only to the centre line of such Road allowance ; and provided also that all disputes arising out of any conflict of Licenses covering Government Road allowances shall be decided by the Commissioner of Crown Lands, who may define what portion of any Road allowance is included in each license, and his decision shall be binding :—

This License not to interfere with prior Licenses.

CROWN TIMBER AGENTS.

OTTAWA DISTRICT.

W. J. Macdonald Ottawa.

MUSKOKA AND PARRY SOUND.

D. F. Macdonald Parry Sound.

PETERBOROUGH DISTRICT.

J. B. McWilliams Peterborough.

ALGOMA DISTRICT.

P. C. Campbell Sault Ste. Marie.

THUNDER BAY DISTRICT.

Hugh Munro Port Arthur.

RAINY RIVER DISTRICT.

Wm. Margach Rat Portage.

REVISED STATUTES OF ONTARIO.

CHAPTER 213.

An Act to preserve the Forests from destruction by Fire.

PROCLAMATION OF FIRE DISTRICT, ss. 1-3.	LOCOMOTIVE ENGINES, MANAGEMENT OF, ss. 9, 10.
RESTRICTIONS AS TO STARTING FIRES, s. 4.	PENALTY, s. 11.
PRECAUTIONS AS TO FIRES FOR CLEAR- ING LAND, s. 5.	LIMITATION OF ACTIONS, s. 12.
Fire for cooking, s. 6.	DISPOSAL OF FINES, s. 13.
Matches, cigars, fire-arms, s. 7.	ENFORCING ACT, s. 14.
ACT TO BE READ TO EMPLOYEES BY SURVEYORS, ETC., s. 8.	RIGHT TO DAMAGES NOT AFFECTED, s. 15.

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:—

Lt.-Governor
may proclaim
a fire district.

1. The Lieutenant-Governor, may, by proclamation to be made by him from time to time, issued by and with the advice and consent of the Executive Council, declare any portion or part of the Province of Ontario to be a fire district. 41 V. c. 23, s. 1.

Publication of
fire district.

2. Every proclamation under this Act shall be published in the *Ontario Gazette*; and such portion or part of the Province as is mentioned and declared to be a fire district in and by the said proclamation, shall, from and after the said publication, become a fire district within the meaning and for the purposes of this Act. 41 V. c. 23, s. 2.

Revocation.

3. Every portion or part of the Province mentioned in the proclamation shall cease to be a fire district upon the revocation by the Lieutenant-Governor in Council of the proclamation by which it was created. 41 V. c. 23, s. 3.

Fires not to be
started except
for certain
purposes and
in certain
periods.

4. It shall not be lawful for any person to set out, or cause to be set out or started, any fire in or near the woods within any fire district between the 1st day of April and the 1st day of November in any year, except for the purpose of clearing

land, cooking, obtaining warmth, or for some industrial purpose; and in cases of starting fires for any of the above purposes, the obligations and precautions imposed by the following sections shall be observed. 41 V. c. 23, s. 4.

5. Every person who shall, between the 1st day of April and the 1st day of November, make or start a fire within a fire district for the purpose of clearing land, shall exercise and observe every reasonable care and precaution in the making and starting of such fire, and in the managing of and caring for the same after it has been made and started, in order to prevent the fire from spreading and burning up the timber and forests surrounding the place where it has been so made and started. 41 V. c. 23, s. 5. Precautions to be taken in case of clearing land.

6. Every person who shall, between the 1st day of April and the 1st day of November, make or start within such a district a fire in the forest, or at a distance of less than half-a-mile therefrom, or upon any island, for cooking, obtaining warmth, or for any industrial purpose, shall— Precautions in case of cooking, etc.

1. Select a locality in the neighbourhood in which there is the smallest quantity of vegetable matter, dead wood, branches, brushwood, dry leaves, or resinous trees;

2. Clear the place in which he is about to light the fire by removing all vegetable matter, dead trees, branches, brushwood, and dry leaves from the soil within a radius of ten feet from the fire;

3. Exercise and observe every reasonable care and precaution to prevent such fire from spreading, and carefully extinguish the same before quitting the place. 41 V. c. 23, s. 6.

7. Any person who shall throw or drop any burning match, ashes of a pipe, lighted cigar or any other burning substance, or who shall discharge any fire-arm within such fire district shall be subject to the pains and penalties imposed by this Act if he neglect completely to extinguish before leaving the spot the fire of such match, ashes of a pipe, cigar, wadding of the fire-arm or other burning substance. 41 V. c. 23, s. 7. Precautions in cases of matches, burning substances, etc.

8. Every person in charge of any drive of timber, survey or exploring party, or of any other party requiring camp-fires for cooking or other purposes, within a fire district, shall provide himself with a copy of this Act, and shall call his men together and cause the Act to be read in their hearing, and explained to them at least once in each week during the continuance of such work or service. 41 V. c. 23, s. 8; Act to be read to employees by heads of surveys, lumberers, etc.

9. All locomotive engines used on any railway which passes through any fire district or any part of a fire district, shall, by the company using the same, be provided with and have in use all Precautions as to locomotives.

the most approved and efficient means used to prevent the escape of fire from the furnace or ash-pan of such engines, and the smoke-stack of each locomotive engine so used shall be provided with a bonnet or screen of iron or steel wire netting, the size of the wire used in making the netting to be not less than number nineteen of the Birmingham wire gauge, or three sixty-fourth parts of an inch in diameter, and shall contain in each inch square at least eleven wires each way at right angles to each other, that is in all twenty-two wires to the inch square. 41 V. c. 23, s. 9.

Duty of engine drivers.

10. It shall be the duty of every engine driver in charge of a locomotive engine passing over a railway within the limits of any fire district, to see that all such appliances as are above mentioned are properly used and applied, so as to prevent the unnecessary escape of fire from any such engine as far as it is reasonably possible to do so. 41 V. c. 23, s. 10.

Penalty.

11. Whosoever unlawfully neglects or refuses to comply with the requirements of this Act in any manner whatsoever, shall be liable, upon a conviction before any Justice of the Peace, to a penalty not exceeding \$50 over and above the costs of prosecution, and in default of payment of such fine and costs the offender shall be imprisoned in the common gaol for a period not exceeding three months; and any railway company permitting a locomotive engine to be run in violation of the provisions of section 9 of this Act shall be liable to a penalty of \$100 for each offence, to be recovered with costs in any Court of competent jurisdiction. 41 V. c. 23, s. 11.

Limitation of actions.

12. Every action for any contravention of this Act shall be commenced within three months immediately following such contravention. 41 V. c. 23, s. 12.

Disposal of fines.

13. All fines and penalties imposed and collected under this Act shall be paid one-half to the prosecutor and the other half to Her Majesty for the public use of the Province. 41 V. c. 23, s. 13.

Government agents to enforce this Act.

14. It shall be the special duty of every Crown Land agent, woods and forest agent, free grant agent and bush ranger to enforce the provisions and requirements of this Act, and in all cases coming within the knowledge of any such agent or bush ranger to prosecute every person guilty of a breach of any of the provisions and requirements of the same. 41 V. c. 23, s. 14.

Act not to interfere with right of action for damages

15. Nothing in this Act contained shall be held to limit or interfere with the right of any party to bring and maintain a civil action for damages occasioned by fire, and such right shall remain and exist as though this Act had not been passed. 41 V. c. 23, s. 15.

DESCRIPTION OF "FIRE DISTRICTS" UNDER CAP. 213 OF THE STATUTES OF ONTARIO.

District No. 1.—Commencing at a point on the north shore of Lake Huron where Provincial Land Surveyor Albert P. Salter's meridian line between ranges numbers twenty-one and twenty-two west intersects the water's edge, said point being the south-west angle of the Township of Plummer; thence easterly, following the turnings and windings of the shore along the water's edge, of Lake Huron and the Georgian Bay to the mouth of the French River; thence south-easterly, along the easterly shore of the Georgian Bay, and taking in Parry Island, to the north-west angle of the Township of Matchedash; thence south-easterly along the westerly boundaries of the Townships of Matchedash and North Orillia to the south-west angle of North Orillia; thence north-easterly along the southerly boundary of North Orillia to the waters of Lake Couchiching; thence easterly across said lake to the south-west angle of the Township of Rama; thence easterly along the south boundaries of the Townships of Rama, Dalton, Digby and Lutterworth, to the north-west angle of the Township of Galway; thence southerly along the western boundaries of the Townships of Galway and Harvey to the south-west angle of Harvey; thence easterly along the south boundaries of the Townships of Harvey, Burleigh, Met-huen, Lake and Tudor, to the north-west angle of the Township of Elzevir; thence southerly along the west boundary of Elzevir to the south-west angle of said Township; thence easterly along the south boundaries of the Townships of Elzevir, Kaladar, Kennebec, Olden, Oso and South Sherbrooke, to the south-east angle of the Township of South Sherbrooke; thence north-westerly along the easterly boundaries of the Townships of South and North Sherbrooke to the southerly boundary of the Township of Levant; thence north-easterly along the southerly boundaries of the Townships of Levant and Darling, to the south-easterly angle of the Township of Darling; thence north-westerly along the easterly boundaries of the Townships of Darling and Bagot, to the north-easterly angle of the Township of Bagot; thence south-westerly along the northerly boundaries of the Townships of Bagot and Blithfield, to the easterly boundary of the Township of Brougham; thence north-westerly along the easterly boundaries of the Townships of Brougham, Grattan, Wilberforce and Alice, to the waters of the Upper Allumette Lake; thence north-westerly, following the water's edge of said lake and the Ottawa River to the head of the Lake Temiscamangue; thence due north along the boundary between the Provinces of Ontario and Quebec, to the northern boundary of the Province of Ontario; thence westerly along the said northern boundary to its intersection with the production northerly of Provincial Land Surveyor Albert P. Salter's meridian line between the said ranges numbers twenty-one and twenty-two west, and thence southerly along said meridian line produced to the place of beginning.

District No. 2.—All that part of the said Province lying west of Provincial Land Surveyor Albert P. Salter's meridian line between ranges twenty-one and twenty-two west, near Bruce Mines, in the District of Algoma, and west of the said meridian line produced, to the northern boundary of the Province, the said meridian line being the western boundary of the Fire District established by the Proclamation of March 27th, 1878.

CIRCULAR TO LICENSE HOLDERS.

The Commissioner of Crown Lands, feeling the importance of creating some better organization for preventing the destruction of the forest by fire, has approved of a scheme, the principal points of which are herein stated to you, so that you may, should the position of your limits make it desirable, avail yourself of its advantages.

It is proposed that during the dangerous period, say from the first day of May, to the first day of October in each year, there shall be placed on such limits as are exposed to danger a man or men who will be empowered and instructed to use every endeavour to prevent and suppress fires in every way possible, and the ranger who is placed in charge of a limit will be authorized to engage whatever help may be necessary to cope with a dangerous fire where prompt action is necessary; these men will be supplied with copies of the "Fire Act," and instructed to post them up in public and conspicuous places, to visit each person resident on the limit and give them if thought advisable, a copy of the Act, explaining to them its provisions, penalty for its infraction, etc., and to endeavour to enlist their assistance and sympathy to make the Act effective.

The Department will leave the limit holder to suggest the number of men who should be placed on his limit, and as it is of all things necessary that practical bushmen of good judgment and well acquainted with the limit should be selected, he, the limit holder, will nominate the man to be placed in charge of the limit and his subordinates, if any, the Department reserving the right to limit the number of men to be employed on any limit and also to reject or remove any man whom it finds unfitted to discharge the duties of the position.

It is hoped that limit holders will recognize the necessity for recommending men of good judgment and cool temper who, while fully discharging their duties, will not harrass or annoy settlers or others, as, if an animus is created in the breasts of the settlers the scheme will undoubtedly fail to affect the result expected. Limit holders will be expected to exercise supervision over these men and see that they thoroughly and effectually perform their duties.

With respect to remuneration the Department thinks that the man in charge of a limit should be paid dollars a day, which should cover board and ordinary expenses, and where subordinates are required, that suitable men can be obtained at dollars per day, which should also cover board and ordinary expenses; the men will be appointed bush and fire rangers and instructed from here so as to clothe them with authority under section 14 of the Fire Act, and a copy of the instructions will be furnished each limit holder.

As the limit holder is reaping a large portion of the benefit, it is intended that he should bear one-half of the cost of men and expenses which may be incurred under this scheme.

The Department will pay wages and expenses and charge to each limit holder his portion, which will be made a charge upon the limit and an account will be rendered at the close of the season, when prompt payment must be made.

Should you desire to avail yourself of this scheme you will at once address a letter to the Department to that effect, stating the limits you wish protected, the number of your license for current season, the number of men you would recommend to be employed, and submit a list of those you would recommend for appointment on your limits.

AUBREY WHITE,
Assistant Commissioner.

DEPARTMENT OF CROWN LANDS,
(WOODS AND FOREST BRANCH,)
April, 1888.

ONTARIO STATUTES, 1890.

CHAPTER 64.

An Act to provide means of Extinguishing Forest Fires

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows :—

1.—(1) The county council of each county may provide by by-law that fire guardians, fenceviewers, overseers of highways or pathmasters, appointed by township councils, whenever the woods or prairies in any township are on fire, so as to endanger property, shall order as many of the inhabitants of such township liable to work on the highways and residing in the vicinity of the place where such fire shall be as they shall severally deem necessary, to repair to the place where such fire prevails, and there to assist in extinguishing the same, or in stopping its progress.

Persons liable for statute labour may be called upon to work to extinguish forest fires.

(2) In portions of the Province where there are no county councils the council of any township may pass the by-law mentioned in the foregoing section.

2. Such fire guardians, fenceviewers, overseers of highways or Pathmasters, may give to such persons as may be employed by them respectively in so doing, certificates of having performed statute labour to the amount of the days work done, and such work shall be allowed for to such persons in their next season's statute labour, or if such persons are not liable to perform statute labour, the council may direct that such work shall be paid for out of the funds of the municipality, and they shall be entitled to be paid the amount of such certificate by the township treasurer, and such county council may also provide for the application by such township council

Work done to be allowed for as statute labour.

of so much of the commutation of statute labour fund as may be required for assisting to extinguish or stop the progress of such fires within their respective municipalities.

Upon default of townships, county may provide for payment of work.

3. In the event of a township council neglecting to provide for the application by such township council of so much of the commutations of statute labour fund, or payment of amount as may be required in the next preceding section of this Act, the county council shall be entitled to do so, and to pay the amount of the said certificates, and to impose upon the township so in default a rate sufficient for that purpose, and such rate shall be levied and collected in the manner provided by *The Assessment Act* as to the collection of county rates.

Penalty for refusing to assist in extinguishing fires.

4. Any person who is liable to perform statute labour and refuses or neglects to turn out and work under any fire guardian, fenceviewer, overseer of highways or pathmaster, who warns him out for that purpose under the authority of this Act, shall be liable to a fine not exceeding \$20 nor less than \$1, over and above costs, and in case of non-payment, to imprisonment for a term not exceeding twenty-one days.

PART IV.

**ACTS, ETC., RESPECTING SURVEYS AND LAND
SURVEYORS.**

REVISED STATUTES OF ONTARIO.

CHAPTER 152.

An Act respecting Land Surveyors and the Survey of Lands.

INTERPRETATION, s. 1.	OATH OF ALLEGIANCE AND OF OFFICE, s. 22.
WHO ONLY MAY ACT AS LAND SURVEYORS, s. 2.	SUSPENSION OF SURVEYORS, s. 23.
BOARD OF EXAMINERS, ss. 3-6.	FEEs, ss. 24, 25.
ADMISSION OF APPRENTICES, ss. 7-9.	ESTABLISHMENT OF BOUNDARY LINES, s. 26.
QUALIFICATIONS FOR ADMISSION TO PRACTICE :	STANDARD OF MEASURE, ss. 27, 28.
In general, s. 10.	CHAIN-BEARERS—OATH OF, s. 29.
Persons admitted elsewhere, s. 11.	POWER TO PASS OVER LANDS IN DISCHARGE OF DUTY, s. 30.
Persons holding University degrees, s. 12 (1).	SURVEY OF BOUNDARY LINES, ss. 31-61.
Persons who have studied at school of Practical Science, s. 12 (2).	PRIVATE SURVEYS IN CITIES, TOWNS AND VILLAGES :
Dominion land surveyors, s. 13.	Road allowances, s. 62.
Graduates of Military College, Kingston and School of Practical Science, s. 14	Registration of plans of, ss. 63-68.
Transfer of apprentices, ss. 15-16.	Plans to be lodged with treasurer of municipality, s. 69.
Instrument of apprenticeship to be filed, s. 17.	SURVEYORS :
EXAMINATION OF CANDIDATES FOR ADMISSION TO PRACTICE, ss. 18-20.	Journals and field notes of, s. 70.
CERTIFICATES OF ADMISSION, ss. 19, 20.	Administration of oaths by, s. 71.
SECURITY, s. 21.	Manner of taking of evidence by, s. 72.
	OFFENCES AND PENALTIES, C. S. C. c. 77, ss. 31 and 107, and R. S. C. c. 168, ss. 56 and 57, p. 1417.

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:—

1. The expression "Commissioner of Crown Lands," wherever it occurs in this Act, shall mean the person discharging the duties of that officer. 50 V. c. 25, s. 1. ^{Interpretation.}

LAND SURVEYORS.

Who may act
as land sur-
veyor.

2. No person shall act as a surveyor of lands within this Province unless he has been duly authorized to practise as a land surveyor according to the provisions of this Act, or had been so authorized before the passing thereof, according to the laws then in force, under a penalty of \$40. 50 V. c. 25, s. 2.

BOARD OF EXAMINERS.

Board of ex-
aminers.

3. There shall be a board of examiners for the examination of candidates for admission to practise as land surveyors, to consist of the Commissioner of Crown Lands, the Professor of Mineralogy and Geology in University College, Toronto, and eight other competent persons to be appointed from time to time by the Lieutenant-Governor, who shall meet at the city of Toronto for the examination of candidates for admission to practise as land surveyors in Ontario. 50 V. c. 25, s. 3.

Oath of office.

4.—(1) Each member of the board, save and except the Commissioner of Crown Lands, shall take an oath of office before a Judge of the High Court or of any County Court; and any three of the members shall form a quorum.

(2) The following shall be the form of the oath of office:

I, _____ of
having been appointed a member of the Board of Examiners for the ad-
mission of Provincial Land Surveyors for the Province of Ontario, do
sincerely promise and swear that I will faithfully discharge the duties of
such office without favour, affection or partiality: So help me God.

Sworn before me, }
at }
this day }
of 18 }

50 V. c. 25, s. 4.

Secretary
to the board.

5. The said board, or a majority thereof, shall from time to time appoint a fit and proper person to be secretary of the board, who shall attend the sittings thereof, and keep a record of its proceedings. 50 V. c. 25, s. 5.

Meetings
when and
where to be
held.

6. The said board shall meet at the office of the Commis-
sioner of Crown Lands, on the first Monday in each of the
months of April and November, in every year, unless such
Monday be a holiday (in which case they shall meet on the
day next thereafter not being a holiday), and may adjourn
such meeting from time to time if they deem it necessary.
50 V. c. 25, s. 6.

APPRENTICES.

7. No person shall be admitted as an apprentice with any provincial land surveyor unless he has previously passed an examination before the board of examiners as to his penmanship and orthography, fractions, decimals, square-root, logarithms, algebra (including equations to the first degree), Euclid (first four books), plane trigonometry, the rules for spherical trigonometry, mensuration of superficies, the use of ruling pen and construction of plain and comparative scales, and has obtained a certificate of such examination and of his proficiency from the board. 50 V. c. 25, s. 7

Qualification for admission as an apprentice, and examination of applicants.

8. Before being so examined he shall pay into the fee fund the sum of \$10 as the fee due by him on the examination, and a further sum of \$2 to the secretary for the said certificate. 50 V. c. 25, s. 8.

Examination fee.

9. Applicants for examination previous to apprenticeship, shall give one month's notice to the secretary of the board of their intention to present themselves for examination, and pay to the secretary a fee of \$1 for receiving and entering such notice. 50 V. c. 25, s. 9.

Notice to be given by applicants.

QUALIFICATION FOR ADMISSION TO PRACTISE.

10. Except as hereinafter provided no person shall be admitted to practise as a land surveyor in and for Ontario until he has attained the full age of 21 years, and has passed an examination before the board of examiners in the following subjects, viz., geometry, including the first six books of Euclid, (with the exception of the last thirteen propositions of the fifth book) algebra, including progressions, plane and spherical trigonometry, mensuration of superficies, laying out and dividing of land, descriptions by metes and bounds for deeds and other documents, the use and adjustment of surveying and levelling instruments, the laying out of curves, practical astronomy, including finding of time, latitude, longitude, azimuth, variation of the compass, and drawing meridian lines, the Acts relating to the survey of lands in Ontario, the general mining Act, the registry Act, so far as it refers to plans, the municipal Acts, so far as they relate to roads, surveys and drainage, the ditches and watercourses Act, the theory and practice of levelling, the principles of evidence, drawing of affidavits, taking of field notes and preparing plans, the rudiments of geology and mineralogy, and the sufficiency of his surveying instruments, and has served regularly and faithfully, for three successive years, under an instrument in writing duly executed before two witnesses, as apprentice to a land surveyor for Ontario, duly admitted and practising therein as such, nor

Qualification for admission to practise.

until he has received from the said land surveyor a certificate of his having so served during the said period, or proves to the satisfaction of the board that he has so served. 50 V. c. 25, s. 10.

Admission of persons previously admitted in any part of Her Majesty's dominions.

11. It shall not be necessary for a land surveyor, duly admitted to practise in any of Her Majesty's dominions other than this Province, to serve under an instrument in writing during three years as aforesaid, but it shall only be necessary for any such person admitted in the Province of Quebec so to serve during six months of actual practice in the field with a land surveyor duly admitted and practising in this Province, and for any other such person so to serve during twelve successive months of actual practice, after which, on complying with all the other requirements hereof, he may undergo the examination by this Act prescribed. 50 V. c. 25, s. 11.

The case of persons who have received university degrees or diplomas as engineers or land surveyors.

12.—(1) A person who has followed a regular course of study in all the branches of education required by law for final admission as a land surveyor, through the regular sessions for at least two years in any university of the Province, or in McGill University, in the city of Montreal in the Province of Quebec, wherein there is organized a complete course of instruction, practical as well as theoretical, in civil engineering, natural philosophy, geology, and other branches of education required by law for admission as a land surveyor, and who has thereupon received from such university, after due examination, a degree or diploma of qualification as a civil engineer and land surveyor, may, after having passed the preliminary examination hereinbefore required for admission to apprenticeship with a land surveyor, be received as an apprentice by any practising land surveyor, and shall thereupon be only holden to serve as such apprentice during twelve successive months of actual service, or if he has passed through such university course of study in less time than two full years, then for such time of actual service as, with the period spent by him in such university course of study, suffices to make up the full time of three years.

Case of persons who have studied at School of Practical Science.

(2) A person who has followed a regular course of study at the Ontario School of Practical Science in the subjects of drawing, surveying and levelling, and geodesy and practical astronomy, and who has thereupon received, after due examination a certificate of having passed one session, two sessions or three sessions, as the case may be, in the study of the aforesaid subjects may, after having passed the preliminary examination hereinbefore required for admission to apprenticeship with a land surveyor, be received as an apprentice by any practising land surveyor, and shall thereupon, if he has received a certificate of having passed three sessions in the study of the said subjects, be only holden to serve as such apprentice during twelve successive months of actual service; or, in case he has

only received a certificate of having passed only one or two sessions, as the case may be, in the study of the said subjects, then for such time of actual service as, with the period spent by him at such session or sessions, suffices to make up the full time of three years.

(3) After such actual service such person shall, subject to the other provisions of this Act, have the same right to undergo the examination required by law, and, if found qualified, to be admitted to practise as a land surveyor as if he had served the full three years' apprenticeship otherwise required by law. 50 V. c. 25, s. 12.

13. In case a Dominion land surveyor under *The Dominion Lands Act* applies for a commission as a land surveyor of this Province, if the board of examiners for the time being are of opinion that the qualifications required of a surveyor of Dominion lands, at the time of the commission having been granted to such surveyor under *The Dominion Lands Act*, were sufficiently similar to those set forth in this Act such surveyor shall be entitled to a certificate of admission as a land surveyor of this Province, without being subjected to any examination except as regards the system of survey of lands in Ontario. 50 V. c. 25, s. 13.

14. The privilege of a shortened term of apprenticeship shall also be accorded to any graduate of the Military College at Kingston, or of the Ontario School of Practical Science, and such person shall not be required to pass the preliminary examination hereinbefore required for admission to apprenticeship with a land surveyor, but shall only be bounden to serve under articles with a practising land surveyor, duly filed as required by section 17 of this Act, during twelve successive months of actual practice, after which, on complying with all the other requirements, he may undergo the examination by this Act prescribed. 50 V. c. 25, s. 14.

15. If a surveyor dies or leaves the Province, or is suspended or dismissed, his apprentice may complete his term of apprenticeship, under an instrument in writing as aforesaid, with any other surveyor duly admitted. 50 V. c. 25, s. 15.

16. A surveyor may, by an instrument in writing transfer an apprentice, with his own consent, to another practising surveyor duly admitted, with whom he may serve the remainder of the term of his apprenticeship. 50 V. c. 25, s. 16.

17. No instrument in writing under which an applicant for admission to practise as a surveyor claims to have served with some practising surveyor for the period of three years, twelve months or six months, (as the case may be), shall avail to authorize the admission of an applicant, unless the in-

strument, has been transmitted to the secretary of the board within two months next after the date thereof, nor unless the fee mentioned in section 25 of this Act was by the apprentice paid to the secretary of the board at the time of transmitting the indenture or articles; and the said secretary shall acknowledge by post the receipt of all such instruments or copies thereof transmitted to him, and shall carefully keep the same in his office. 50 V. c. 25, s. 17.

ADMISSION OF CANDIDATES.

Notice of examination to be given by candidates for admission.

18. Every person desiring to be examined by the board as to his qualification to be admitted as a land surveyor, shall give notice thereof in writing to the secretary of the board, at least one month previous to the meeting thereof. 50 V. c. 25, s. 18.

The board to require certificates of good conduct, etc

19. Every person applying for admission to practise as a land surveyor shall produce to the board satisfactory certificates as to character for probity and sobriety, and before a certificate is granted shall perform such practical operations in the presence of the board, and shall answer such questions on oath (which oath any member of the board may administer) with regard to the actual practice of such applicant in the field, and with regard to his surveying instruments as the said board may require. 50 V. c. 25, s. 19.

If the examiners approve of the candidate they are to grant him a certificate.

20. If the said examiners are satisfied as to the qualifications of the candidate, and his compliance with all the requirements of this Act, they shall grant him a certificate in the form following:

"This is to certify to all whom it may concern, that *A. B.* of _____ in the County of _____ has duly passed his examination before the board of examiners, and has been found qualified to fill the office and perform the duties of a Provincial Land Surveyor in and for Ontario, he having complied with all the requirements of the law in that behalf. Wherefore the said *A. B.* is admitted to the said office, and is by law authorized to practise as a land surveyor in Ontario.

"In witness whereof, we have signed this certificate at the City of Toronto, in the County of York, and Province of Ontario, Dominion of Canada, the _____ day of _____ 18 ____."

Signature of the Chairman, "C. D."

Signature of the Secretary, "E. F."

And such certificate shall, on his complying with the other requirements of this Act, enable him to practise as a land surveyor in and for Ontario. 50 V. c. 25, s. 20.

Licentiatees to give bonds and take the oaths of allegiance and of office.

21.—(1) Each applicant, before receiving the above mentioned certificate, shall, with two sufficient sureties to the satisfaction of the said board of examiners, enter into a bond jointly and severally in the sum of \$1,000 to Her Majesty, Her Heirs and Successors, conditioned for the due and faithful performance of the duties of his office.

(2) The said bond shall be deposited and kept in the man-^{Where bonds to be deposited.} ner by law prescribed with regard to bonds given for like purposes by other public officers, and shall enure to the benefit of any party sustaining damage by breach of the condition thereof; and the certificate shall be registered in the office of the Provincial Secretary. 50 V. c. 25, s. 21.

22.—(1) Each applicant, after having been granted a certifi-^{Oaths.} cate, shall also take and subscribe the oath of allegiance, and the following oath, before the board of examiners, who are hereby empowered to administer the same :

“I, *A. B.* do solemnly swear (*or affirm, as the case may be*) that I will faithfully discharge the duties of a land surveyor, agreeably to law, without favour, affection or partiality : So help me God.”

(2) The said oath of allegiance and of office shall be deposited in the office of the Provincial Secretary. 50 V. c. 25, s. 22.

23. The board of examiners may in their discretion suspend ^{When the board may suspend licensed surveyors.} or dismiss from the practice of his profession, any land surveyor whom they find guilty of gross negligence or corruption in the execution of the duties of his office; but the board shall not take action until the complaint under oath has been filed with the board, and a copy thereof forwarded to the party accused, nor shall the board suspend or dismiss such land surveyor without having previously summoned him to appear in order to be heard in his defence, nor without having heard the evidence offered either in support of the complaint or in behalf of the surveyor inculpated. 50 V. c. 25, s. 23.

24. The Commissioner of Crown Lands shall pay to each ^{Fees to be paid to the members of the board.} member of the board of examiners and the secretary of the board, who attends any examination, the sum of \$5 for each day's attendance, and charge the same in his account as part of the expenses of his office. 50 V. c. 25, s. 24.

25. The following fees shall be paid under the provisions of ^{Tariff of fees.} this Act :

1. To the secretary of the board of examiners, by each Apprentice, at the transmitting to such secretary the Indenture or Articles of such apprentice \$2 00
2. To the secretary of the board by each candidate for examination with his notice thereof 1 00
3. To the secretary of the board by each applicant obtaining a certificate, as his fee thereon 2 00
4. To the secretary of the board as an admission fee by each applicant receiving a certificate, out of which the expenses attending the examination of such applicant (if any) shall be first paid, and the remainder (if any) shall be paid over to the Commissioner of Crown Lands and be accounted for like other moneys received by him 20 00

5. To every surveyor summoned to attend any court, civil or criminal, for the purpose of giving evidence in his professional capacity as a surveyor, for each day he so attends, in addition to his travelling expenses (if any), and to be taxed and paid in the manner by law provided with regard to the payment of witnesses attending such court \$5 00-

50 V. c. 25, s. 25.

BOUNDARY LINES.

The establishment of boundary lines regulated.

26. All boundary or division lines legally established, and ascertained under the authority of any Ordinance or Act heretofore in force, shall remain good, and all other acts or things legally done and performed under the authority of the said Ordinance and Acts, or any of them, and in conformity to the provisions thereof, shall remain good and valid notwithstanding the repeal of such Ordinance or Act. 50 V. c. 25, s. 26.

The standards of measure regulated.

27. The standard of English measure of length, compared with and corrected by the standards for such measures established in this Province, and procured by the Commissioner of Crown Lands for the purpose of comparing therewith the standards to be kept by each surveyor as hereinafter provided, shall be deposited with the secretary of the board of examiners at Toronto, and the said secretary, under such instructions as he from time to time receives from the board, shall examine, test and stamp each standard measure of length for the surveyors, bringing the same for examination as the Commissioner of Crown Lands may do and with the same effect; and for each measure so examined and stamped such secretary may demand and receive fifty cents. 50 V. c. 25, s. 27.

Surveyors to procure stamped standard measures.

28. Every land surveyor duly admitted and practising shall procure and shall cause to be examined, corrected and stamped or otherwise certified by the Commissioner of Crown Lands, or some one deputed by him for that purpose, or by the secretary aforesaid, a standard measure of length, under the penalty of the forfeiture of his license or certificate, and shall, previously to proceeding on any survey, verify by such standard the length of his chains and other instruments for measuring. 50 V. c. 25, s. 28.

Chain-bearers to be sworn, and nature of the oath.

29. Every chain-bearer shall, before he commences his chaining or measuring, take an oath or affirmation to act as such justly and exactly according to the best of his judgment and ability and to render a true account of his chaining or measuring to the surveyor by whom he has been appointed to such duty, and that he is absolutely disinterested in the survey in question, and is not related or allied to any of the parties interested in the survey within the fourth degree, according to the computation of the civil law—that is to say, within the degree of cousin-german, which oath the surveyor employing such chain-bearer is hereby authorized and required to administer; nor

shall any person related or allied to any of the parties within the said degree be employed as a chain-bearer on any survey. 50 V. c. 25, s. 29.

30. A land surveyor, when engaged in the performance of the duties of his profession, may pass over, measure along and ascertain the bearings of any line or limit whatsoever, and for such purposes may pass over the lands of any person whomsoever, doing no actual damage to the property of such person. 50 V. c. 25, s. 30.

When land surveyors may pass over private lands.

31. Where a surveyor is in doubt as to the true boundary or limit of any township, concession, range, lot or tract of land which he is employed to survey, and has reason to believe that any person is possessed of any important information touching such boundary or limit, or of any writing, plan or document tending to establish the true position of such boundary or limit, then if such person does not willingly appear before and be examined by such surveyor, or does not willingly produce to him such writing, plan or document, such surveyor or the party employing him may file in the office of the County Court a præcipe for a subpoena or subpoena *duces tecum*, as the case may require, accompanying such application by an affidavit or solemn declaration to be made before a Justice of the Peace, of the facts on which the application is founded, and the Judge may order a subpoena to issue accordingly, commanding such person to appear before the surveyor, at a time and place to be mentioned in the said subpoena and to bring with him any writing, plan or document mentioned or referred to therein. 50 V. c. 25, s. 31.

Course to be adopted by surveyors to ascertain boundary line, when doubtful, etc.

May subpoena witnesses.

32. The subpoena shall be served on the person named therein by delivering a copy thereof to him, or by leaving the same for him with some grown person of his family at his residence, exhibiting to him or to such grown person the original. 50 V. c. 25, s. 32.

Service of subpoena.

33. If the person commanded to appear by the subpoena after being paid his reasonable expenses, or having the same tendered to him, refuses or neglects to appear before the surveyor at the time and place appointed in the subpoena, or to produce the writing, plan or document (if any) therein mentioned or referred to, or to give such evidence and information as he may possess touching the boundary or limit in question, the person so summoned shall be deemed guilty of a contempt of the Court out of which the subpoena issued, and an attachment may be issued against him by the Judge of the said Court, and he may be punished accordingly, by fine or imprisonment, or both, in the discretion of the Judge. 50 V. c. 25, s. 33.

Penalty of disobeying

Stone monuments may be placed at certain points in townships,

34. Stone monuments, or monuments of other durable materials, shall be placed at the several corners, governing points or off-sets of every township already surveyed, or after this Act takes effect from time to time surveyed, and also at each end of the several concession lines of such townships; and lines drawn in the manner hereinafter prescribed from the monuments so erected, shall be taken and considered to be the permanent boundary lines of such townships and concessions respectively. 50 V. c. 25, s. 34.

Under direction of Commissioner of Crown Lands.

35. The monuments to be placed as above mentioned shall be so placed under the direction and order of the Commissioner of Crown Lands. 50 V. c. 25, s. 35.

Boundaries ascertained as aforesaid to be deemed the true ones.

36. The courses and lengths of the said boundary lines, so ascertained and established, shall on all occasions be the true courses and lengths of the boundary lines of the said townships and concessions, whether the same do or do not, on actual survey, coincide with the courses and lengths in any letters patent of grant or other instrument mentioned and expressed in respect of such boundary lines. 50 V. c. 25, s. 36.

Monuments need not be placed under ss. 34-36 except on the application of the municipal council.

37. It shall not be necessary for the Commissioner of Crown Lands to proceed to carry the provisions of the last preceding three sections of this Act into execution, until an application for that purpose has been made to the Lieutenant-Governor, by the council of the county in which the township or townships interested is situate, and such council shall cause the sum requisite to defray the expenses to be incurred, or the proportion thereof payable by the inhabitants of any township or concession, to be levied on the said inhabitants, in the same manner as any sum required for any other local purpose authorized by law may be levied. 50 V. c. 25, s. 37.

In what cases the municipal council may apply to have monuments placed.

38.—(1) And whereas in several of the townships in Ontario some of the concession lines, and side road lines, or parts of the concession lines and side road lines were not run in the original survey performed under competent authority, and the survey of some of the concession lines and side road lines, or parts of the concession lines and side road lines have been obliterated, and owing to the want of such lines the inhabitants of such concessions are subject to serious inconvenience, therefore the municipal council of the township in which such lines are situated, may, on application of one-half the resident landholders in any concession, or part of concession, or upon its own motion without such application, apply to the Lieutenant-Governor, requesting him to cause any such line or lines to be surveyed and marked by permanent stone or iron boundaries under the direction and order of the Commissioner of Crown Lands, in the manner prescribed in this Act, at the cost of the proprietors of the lands in each concession or part of a concession interested.

(2) The concession lines, where not run, or where they have been obliterated, shall be so drawn as to leave each of the adjacent concessions of a depth proportionate to that intended in the original survey. As to the adjacent concessions.

(3) The survey of the parts of those concession lines intended to be straight, and which were not run or which have been obliterated, shall be established by drawing a straight line between the two nearest points or places where such line or lines can be clearly and satisfactorily ascertained. Establishment of lines.

(4) The lines or parts of lines so surveyed and marked as aforesaid, shall thereafter be the permanent boundary lines of such concession or side roads, or parts of concessions or side roads, to all intents and purposes of law whatsoever. To be permanent boundary lines.

(5) The council shall cause to be laid before them an estimate of the sum requisite to defray the expenses to be incurred in order that the same may be levied on the said proprietors, in proportion to the quantity of land held by them respectively in such concession or part of a concession, in the same manner as any sum required for any other purposes authorized by law may be levied. 50 V. c. 25, s. 38. Expenses to be estimated and provided for.

39.—(1) Whenever the municipal council of any township, city, town or incorporated village adopts a resolution, on application of one-half the resident landholders to be affected thereby, or upon its own motion, that it is desirable to place stone or other durable monuments at the front or at the rear, or at the front and rear angles of the lots in any concession or range or block or part of a concession, or range or block in their township, city, town, or incorporated village, such municipal council may make application to the Lieutenant-Governor, in the same manner as is provided in section 38, praying him to cause a survey of such concession or range or block, or part of a concession or range or block, to be made, and such boundaries to be planted, under the authority of the Commissioner of Crown Lands. Municipal councils may cause the boundaries of lots to be ascertained and marked.

(2) The surveyor making such survey shall accordingly plant stone or other durable monuments at the front, or at the rear, or at the front and rear angles of each and every lot in such concession or range or block, or part of a concession or range or block, and the limits of each lot so ascertained and marked shall be the true limits thereof. Boundaries to be marked durable monuments.

(3) The cost of such survey shall be defrayed in the manner prescribed by section 38 of this Act. 50 V. c. 25, s. 39. How cost to be defrayed.

40. All expenses incurred in performing any survey, or placing any monument or boundary under the provisions of section 34 and the following sections, shall be paid by the county treasurer to the person or persons employed in such services, on the certificate and order of the Commissioner of Crown Lands. 50 V. c. 25, s. 40. Expenses how paid.

Boundaries placed under the authority of the Government to be deemed the true ones, etc.

41. All boundary lines of townships, cities, towns and villages, all concession lines, governing points, and all boundary lines of concessions, sections, blocks, gores and commons, and all side lines and limits of lots surveyed, and all trees marked in lieu of posts and all posts or monuments, marked, placed or planted at the front or rear angles of any lots or parcels of land, under the authority of the Executive Government of the late Province of Quebec or of Upper Canada or of Canada, or under the authority of the Executive Government of this Province, shall be the true and unalterable boundaries of all and every such townships, cities, towns, villages, concessions, sections, blocks, gores, commons, and lots or parcels of land, respectively, whether the same upon admeasurement be found to contain the exact width, or more or less than the exact width mentioned or expressed in any letters patent, grant or other instrument in respect of such township, city, town, village, concession, section, block, gore, common, lot or parcel of land. 50 V. c. 25, s. 41.

Townships, etc., to comprise all the space included within their boundaries.

42. Every township, city, town, village, concession, section, block, gore, common, lot or parcel of land, shall embrace the whole width, contained between the front posts, monuments or boundaries, planted or placed at the front angles thereof respectively, so marked, placed or planted as aforesaid, and no more nor less, any quantity or measure expressed in the original grant or patent thereof notwithstanding. 50 V. c. 25, s. 42.

As to aliquot parts of townships, etc.

43. Every patent, grant or instrument, purporting to be for any aliquot part of any concession, section, block, gore, common, lot or parcel of land in any such township, city, town or village, shall be construed to be a grant of such aliquot part of the quantity the same may contain, whether such quantity be more or less than that expressed in such patent, grant or instrument. 50 V. c. 25, s. 43.

Road allowances in cities, etc., to be public highways.

44. In every city, town or village, or any part thereof, which has been surveyed by the authority aforesaid, all allowances for any road, street, lane or common laid out in the original survey of such city, town or village, or any part thereof, shall be public highways and commons; and all posts or monuments placed or planted in the original survey of such city, town or village, or any part thereof, to designate or define any allowance for a road, street, lane, lot or common, shall be the true and unalterable boundaries of every such road, street, lane, lot and common; and all land surveyors, employed to make surveys in such city, town or village, or any part thereof, shall follow and pursue the same rules and regulations in respect of such surveys as is by law required of them when employed to make surveys in townships. 50 V. c. 25, s. 44.

45. All surveys of townships, tracts or blocks of land in this Province, granted by the Crown to companies and individuals before any surveys had been made therein, and which were afterwards surveyed by the owners thereof, shall be original surveys thereof, and shall have the same force and effect as though the said original surveys and plans thereof had been made by competent authority; and all allowances for roads or commons surveyed in such townships, tracts or blocks of land, and laid down on the plans thereof, shall be public highways and commons; and all lines run and marked in such original surveys, and all posts or monuments planted or placed in such original surveys to designate and define any allowance for road, concession, lot of land or common, shall be the true and unalterable lines and boundaries of such allowance for road, common or lot of land, and all land surveyors, when employed to make surveys in such townships, tracts or blocks of land, shall follow and pursue the same rules and regulations in respect of such townships, tracts or blocks of land, and the original surveys thereof, as they are by law required to follow and pursue in all townships, tracts or blocks of land surveyed by the authority aforesaid. 50 V. c. 25, s. 45.

As to lands granted in blocks and subsequently surveyed by the grantees.

46. The course of the boundary line of each and every concession, on that side from which the lots are numbered, shall be the course of the division or side lines throughout the several townships or concessions respectively, provided that such division or side lines were intended, in the original survey performed under such authority as aforesaid, to run on the same course the said boundary. 50 V. c. 25, s. 46.

Governing lines declared.

47. Every surveyor shall run all division or side lines, which he is called upon by the owner or owners of any lands to survey on the same course as that boundary line of the concession in which such lands are situate, from whence the lots are numbered as aforesaid, provided such division or side lines were intended, in the original survey performed under such competent authority as aforesaid, to run on the same course as the said boundary. 50 V. c. 25, s. 47.

All side lines to be run on the same course governing lines.

48. Where that end of a concession, from which the lots are numbered, is wholly bounded by a lake or river, or other natural boundary, or where it has not been run in the original survey performed under competent authority as aforesaid, or where the course of the division or side lines of the lots therein was not intended in the original survey performed as aforesaid, to be on the same course as such boundary, the said division or side lines shall be run on the same course as the boundary line at the other extremity of such concession, provided their course was intended, in the original survey performed as aforesaid, to be the same, and that such boundary line was run in the original survey. 50 V. c. 25, s. 48.

Course to be adopted where concession bounded by lakes or rivers.

Where division or side lines not intended to run parallel to the side lines at either end of a concession.

49. Where in the original survey, performed under competent authority as aforesaid, the course of the division or side lines in any concession was not intended to be on the same course as the boundary line at either end of such concession, they shall be run at such angle with the course of the boundary line at that end of the concession from which the lots are numbered, as is stated in the plan and field notes of the original survey, of record in the Department of Crown Lands, provided such line was run in the original survey as aforesaid, or with the course of the boundary line at the other extremity of the said concession, if the boundary at that end of the concession from which the lots are numbered was not run in the original survey; or if neither of the aforesaid boundaries of the concession was run in the original survey, or if the concession is wholly bounded at each end by a lake or river, or other natural boundary, then at such angle with the course of the line in front of the said concession as is stated in the plan and field notes aforesaid, or if parts of the concession line have been run on different courses as shewn on said plans and field notes, then at such angle with the course of each of these parts, as is stated in the plan and field notes aforesaid. 50 V. c. 25, s. 49.

Where a division or proof line has been run between lots, the same shall govern.

50. If any division or side line between lots, or proof line intended to be on the same course as the division or side lines between lots, was drawn in any such concession, bounded as aforesaid, in the original survey thereof, the division or side lines between the lots therein shall be on the same course as such division or side line or proof line. 50 V. c. 25, s. 50.

Where there are two of such lines, the line nearest the end of the concession, from which the lots are numbered, to govern to the next of such lines.

51. Where two or more such division or side lines or proof lines were drawn in the original survey of such concession, bounded as aforesaid, that division or side line or proof line which is nearest to the boundary of the concession from which the lots are numbered, shall govern the course of the division or side lines of all the lots in such concession between the boundary of the concession from which the lots are numbered, and the next division or side line or proof line drawn in the original survey; and such last mentioned line or proof line shall govern the course of the division or side lines of all the lots up to the next division or side line or proof line drawn in the original survey, or to the boundary of the concession towards which the lots are numbered, as the case may be. 50 V. c. 25, s. 51.

How lines to be governed in townships laid out in sections under the O.C. of the 27th March, 1829, etc.

52. In all those townships which in the original survey were divided into sections, agreeably to an Order in Council bearing date the 27th day of March, 1829, or which have since been or shall be divided into sections or blocks of one thousand acres, or thereabouts, or six hundred and forty acres or thereabouts, as the case may be, under instructions from the Commissioner of Crown Lands, the division or side lines in all concessions, in any section or block, shall be governed by the

boundary lines of such section or block, in like manner as the division or side lines in townships originally surveyed before the said day, are governed by the boundary lines of the concession in which the lots are situated: Provided that in those sections or blocks the governing boundaries of which are broken by lakes or rivers in such a way that the course thereof cannot accurately be determined, a surveyor when called upon to run any side line in any concession in such section or block, shall run such side line on the astronomical course of the side lines of the lots in the township, as shewn on the original plan and field notes thereof, of record in the Department of Crown Lands. 50 V. c. 25, s. 52.

53. The front of each concession in any township, where only a single row of posts has been planted on the concession lines, and the lands have been described in whole lots, shall be that end or boundary of the concession which is nearest to the boundary of the township from which the several concessions thereof are numbered; and when the line in front of any such concession was not run in the original survey, the division or side lines of the lots in such concession shall be run from the original posts or monuments placed or planted on the front line of the concession in the rear thereof, on the same course as the governing line determined as aforesaid, to the depth of the concession, that is, to the centre of the space contained between the lines in front of the adjacent concessions, if the concessions were intended in the original survey to be of an equal depth, or, if they were not so intended, then to the proportionate depth intended in the original survey, as shewn on the plan and field notes thereof of record in the Department of Crown Lands, having due respect to any allowance for a road or roads made in the original survey; and a straight line joining the extremities of the division or side lines of any lot in such concession, drawn as aforesaid, shall be the true boundary of that end of the lot which was not run in the original survey. 50 V. c. 25, s. 53.

What shall be deemed the front of a concession in certain cases.

54. In those townships in which any concession is wholly bounded in front by a river or lake, where no posts or other boundaries were planted in the original survey on the bank of such river or lake to regulate the width in front of the lots in the broken front concessions, the division or side lines of the lots in such broken front concessions shall be drawn from the posts or other boundaries on the concession line in rear thereof, on the same course as the governing line, determined as aforesaid, to the river or lake in front. Where any concession is bounded in front at either end, in part though not wholly, by a river or lake, and no posts or other boundaries were planted in the original survey on the bank of such river or lake to regulate the widths of the lots broken by said river or lake, the division or side lines of said broken lots shall be drawn from points on the rear of the concession determined

In townships fronting on a river or lake, how division lines to be drawn if no posts planted to mark the width of lots.

by measuring off the widths proportionately as intended in the original survey, from the intersection of the division or side line of the last whole lot of the original survey with the rear line of said concession, on the same course as the governing line, determined as aforesaid, to the river or lake in front. 50 V. c. 25, s. 54.

Fronts of concessions in certain other cases, depths of lots, etc.

55. In those townships in which the concessions have been surveyed with double fronts, that is, with posts or monuments planted on both sides of the allowances for roads between the concessions, and the lands have been described in half lots, the division or side lines shall be drawn from the posts at both ends to the centre of the concession, and each end of such concession shall be the front of its respective half of such concession, and a straight line joining the extremities of the division or side lines of any half lot in such concession, drawn as aforesaid, shall be the true boundary of that end of the half lot which has not been bounded in the original survey. 50 V. c. 25, s. 55.

Mode of drawing lines in double fronted concessions.

56. And whereas some of the double front concessions are not of the full depth, and doubts have arisen as to the manner in which the division or side lines in such concessions should be established:—Therefore, in such concessions the division or side lines shall be drawn from the posts at both ends thereof, to the centre of the concession, as provided in the last preceding section of this Act, without reference to the manner in which the lots or parts of lots in such concession have been described for patent. 50 V. c. 25, s. 56.

As to concessions in cases where alternate concession lines only have been run.

57. In those townships in which each alternate concession line has only been run in the original survey, but with double fronts as aforesaid, the division or side lines shall be drawn from the posts or monuments on each side of such alternate concession lines to the depth of a concession—that is, to the centre of the space contained between such alternate concession lines, if the concessions were intended in the original survey to be of an equal depth, or if they were not so intended, then to the proportionate depth intended in the original survey, as shewn on the plan and field-notes thereof of record in the Department of Crown Lands; and each alternate concession line as aforesaid shall be the front of each of the two concessions abutting thereon. 50 V. c. 25, s. 27.

As to lands in adjoining concessions included in the same grant.

58. In cases where any Crown patent of grant, or other instrument, has been issued for several lots or parcels of land in concessions adjoining each other, the side lines or limits of the lots or parcels of land therein mentioned and expressed, shall commence at the front angles of such lots or parcels of land respectively, and shall be run as hereinbefore provided, and shall not continue on in a straight line through several conces-

sions—that is to say, each lot or parcel of land shall be surveyed and bounded according to the provisions of this Act, independently of the other lots or parcels mentioned in the same grant or instrument. 50 V. c. 25, s. 58.

59. Every land surveyor employed to run any division line or side line between lots, or any line required to run on the same course as any division line or side line in the concession in which the land to be surveyed lies, shall, if it has not been done before, or if it has been done but the course cannot at such time be ascertained, determine by astronomical observation the true course of a straight line between the front and rear ends of the governing boundary line of the concession or section, and shall run such division line or side line as aforesaid, on the same course as such straight line, if so intended in the original survey, or at such angle therewith as is stated in the plan and field notes as aforesaid, which shall be deemed to be the true course of the said governing or boundary line for all the purposes of this Act, although such governing or boundary line as marked in the field be curved or deviate otherwise from a straight course; and the same rule shall be observed, if a line is to be run at any angle with a front line or other line which is not straight. 50 V. c. 25, s. 59.

Rule when a line is to be drawn on the same course as a governing line.

60.—(1) In all cases where a land surveyor is employed to run any side line or limits between lots, and the original post or monument from which such line should commence cannot be found, he shall obtain the best evidence that the nature of the case admits of, respecting such side line, post or limit; but if the same cannot be satisfactorily ascertained, then the surveyor shall measure the true distance between the nearest undisputed posts, limits or monuments, and divide such distance into such number of lots as the same contained in the original survey, assigning to each a breadth proportionate to that intended in the original survey, as shewn in the plan and field-notes thereof, of record in the Department of Crown Lands; and if any portion of the line in front of the concession in which such lots are situate, or boundary of the township in which such concession is situate, has been obliterated or lost, then the surveyor shall run a line between the two nearest points or places, where such line can be clearly and satisfactorily ascertained, in the manner provided in this Act, and shall plant all such intermediate posts or monuments as he may be required to plant, in the line so ascertained, having due respect to any allowance for a road or roads, common or commons, set out in the original survey; and the limits of each lot so found shall be the true limits thereof.

Cases where the original post or monument cannot be found, provided for.

(2) In double front or alternate concessions, where an original post or monument cannot be found, any original post still standing, or the position of which is satisfactorily established

on the opposite side of the concession road allowance or on the centre line thereof, shall constitute the best evidence within the meaning of the preceding sub-section for the purpose of establishing the position of such missing post or monument. 50 V. c. 25, s. 60.

If side lines were drawn in original survey, the same to be adhered to.

61. In those townships in which the side lines of the lots were drawn in the original survey, every Provincial land surveyor when called upon to determine any disputed boundary in any of such townships, shall ascertain and establish the division or side lines of the lots, by running such side lines as they were run in the original survey whether the same were in the original survey run from the front of the concession to the rear, or from the rear of the concession to the front, and shall adhere to all posts, limits or monuments, planted on the division or side lines in the original survey, as being or designating corners of lots under such original survey. 50 V. c. 25, s. 61.

As to allowances for roads or streets in cities, towns or villages laid out by private owners.

62.--(1) All allowances for roads, streets or commons, surveyed in cities, towns and villages, or any part thereof, which have been or may be surveyed and laid out by companies and individuals and laid down on the plans thereof, and upon which lots of land fronting on or adjoining such allowances for roads, streets, or commons have been or may be sold to purchasers, shall be public highways, streets, and commons; and all lines which have been or may be run, and the courses thereof given in the survey of such cities, towns and villages, or any part thereof, and laid down on the plans thereof, and all posts or monuments which have been or may be placed or planted in the first survey of such cities, towns and villages, or any part thereof, to designate or define any allowances for roads, streets, lots or commons, shall be the true and unalterable lines and boundaries thereof respectively; and all land surveyors employed to make surveys in such city, town or village, or any part thereof, shall follow and pursue the same rules and regulations in respect of such surveys as is by law required of them when employed to make surveys in townships: provided that the municipal corporation shall not be liable to keep in repair any road, street, bridge or highway laid out by any private person until established by by-law of the corporation or otherwise assumed for public use by such corporation, as provided in *The Municipal Act*.

Proviso.

Rev. Stat. c. 184.

City, town or village lots not to be laid out so as to interfere with any allowance for roads.

(2) No lot or lots of land in such cities, towns and villages shall be so laid out as to interfere with, obstruct, shut up, or be composed of any part of any allowance for road, common or commons, which were surveyed and reserved in the original survey of the township or townships wherein such cities, towns or villages, are or may be situate.

No private survey valid unless made by a licensed surveyor.

(3) No such private survey shall be valid unless performed by a duly authorized surveyor. 50 V. c. 25, s. 62.

63.—(1) Whenever any land is surveyed and sub-divided for the purpose of being sold or conveyed in lots by reference to a plan which has not been already registered, the person making the sub-division shall within three months from the date of the survey file with the registrar a plan of the land on a scale of not less than one inch to every four chains. The plan shall shew the number of the township, town or village lots, and range or concession as originally laid out, and all the boundary lines thereof, within the limits of the land shewn on the said plan, and where such plan is a sub-division of a lot, or lots, on a former plan, it shall shew the numbers or other distinguishing marks of the lot or lots sub-divided, and the boundary lines of such lot or lots. The plan shall also shew all roads, streets, lots and commons within the same, with the courses and widths thereof respectively, and the width and length of all lots, and the courses of all division lines between the respective lots within the same, together with such other information as is required to shew distinctly the position of the land being sub-divided.

Registration of plans when land sub-divided.

(2) Every such map or plan before being registered, shall be signed by the person or the chief officer of the corporation by whom or on whose behalf the same is filed, and shall also be certified by some Provincial land surveyor in the form of Schedule L. to *The Registry Act*, as follows:—

Duty of registrars thereafter.
Rev. Stat. c. 114.

I hereby certify that this plan accurately shews the manner in which the land included therein has been surveyed and sub divided by me ; and that the said plan is prepared in accordance with the provisions of *The Registry Act*.

Form of surveyor's certificate on plan.

A. B.,
Provincial Land Surveyor.

Dated

18 .

and thenceforward the registrar shall keep an index of the lands described and designated by any number or letter on the map or plan, by the name by which such person, corporation or company designates the same in the manner provided by *The Registry Act* ; and all instruments affecting the land or any part thereof, executed after the plan is filed with the registrar shall conform thereto, otherwise they shall not be registered.

Instruments must conform to plan.

(3) In the case of refusal by such person, corporation or company, his or their executors, agents, or attorneys, or successors, for two months after demand in writing for that purpose, to lodge the said plan or map when required by any person interested therein, or by the inspector, so to do, he or they shall incur a penalty of \$20 for each and every calendar month the said map or plan remains unregistered, which penalty may be recovered by any person complaining, in any Division Court in the county in which such lands are situated, in like manner as a common debt.

Penalty for refusing to lodge plan.

To what land
this section
applies.

(4) This section shall apply as well to lands already surveyed or sub-divided as to those which may hereafter be surveyed or sub-divided, subject to the next succeeding section. 50 V. c. 25, s. 63. *See also* Cap. 114, s. 84.

When plan
must be regis-
tered in case
of lands sub-
divided before
March 4th,
1868.

64. In sales of lands under surveys or sub-divisions made before the 4th day of March, 1868, where the surveys or sub-divisions so differ from the manner in which the land was surveyed or granted by the Crown that the parcel so sold cannot be easily identified, the plan or survey shall be registered within six months after the passing of this Act, if the plan or survey is still in existence and procurable for registration and filing under the next preceding section, and if it is not, a new survey or plan shall be made by and at the joint expense of the persons who have made such surveys or sub-divisions, and of all others interested therein, by some duly authorized Provincial land surveyor, as nearly as may be according to the proper original survey or sub-division, and the same when so made shall be filed as if under the next preceding section of this Act. 50 V. c. 25, s. 64. *See also* Cap. 114, s. 85.

How to be
made.

Plan not bind-
ing until some
sale is made
under it; al-
terations in
plan.

65. In no case shall any plan or survey, although filed and registered, be binding on the person so filing or registering the same, or upon any other person, unless a sale has been made according to such plan or survey, and in all cases amendments or alterations of any such plan or survey may be ordered to be made, at the instance of the person filing or registering the same or his assigns, by the High Court, or by any Judge of the said Court, or by the Judge of the County Court of the county in which the land lies, if on application for the purpose duly made, and upon hearing all parties concerned, it be thought fit and just so to order, and upon such terms and conditions as to costs and otherwise as may be deemed expedient. An appeal shall be from any such order to the Court of Appeal.

Proviso as to
streets.

(2) No part of any street or streets shall be altered or closed up, upon which any lot of land sold abuts, or which connects any such sold lot with or affords means of access therefrom to the nearest public highway.

(3) Nothing herein shall in any way interfere with the powers now possessed by municipalities in reference to highways. 50 V. c. 25, s. 65.

Copies of regis-
tered plans,
to be evidence
of the orig-
inals.

66. Every copy of such plan or map obtained from such registry office, and certified as correct by the registrar or deputy registrar as aforesaid shall be taken in all Courts as evidence of the original thereof and of the survey of which it purports to be a plan or map. 50 V. c. 25, s. 66.

67. Whenever any such plan or map has been so made and deposited as aforesaid the registrar shall make a record of the same, and enter the day and year on which the same is deposited in his office; and for such service the said registrar shall be entitled to charge the fees prescribed by *The Registry Act*. 50 V. c. 25, s. 67.

Duty of the registrar in whose office any such plan is deposited.
Rev. Stat. c. 114.

68.—(1) Where an incorporated city, town or village, or village not incorporated, comprises different parcels of land owned at the original division thereof by different persons, and the same were not jointly surveyed and one entire plan of such survey made and filed in accordance with section 63 of this Act, the municipal council of the township within which such unincorporated village is situated or of such incorporated city, town or village, shall, upon the written request of the inspector, or of any person interested, addressed to the clerk of the municipality, immediately cause a plan of such city, town or village, to be made upon the scale provided for under this Act, and to be registered in the registrar's office of the registry division within which the municipality lies, which map or plan shall have endorsed thereon the certificates of the clerk and head of the municipality and surveyor, that the same is prepared according to the directions of the municipality, and in accordance with this Act, and to the map or plan the corporate seal of the municipality shall be attached.

Plans of cities, towns or villages to be registered in certain cases.

(2) The expense attending the preparing and depositing of the map or plan shall be paid out of the general funds of the municipality, except in the case of unincorporated villages, where the same shall be paid by a special rate to be levied by assessment on all ratable property comprised in the unincorporated village, as described by metes and bounds in a by-law to be passed by the municipality for the purpose of levying such rate; and in case of the refusal of the municipality to comply with all the requirements of this section within six months next after being required in manner aforesaid so to do, the municipality shall incur the same penalty, and the same shall be recoverable in the manner provided in section 63 of this Act.

Payment of expenses.

(3) Where land in a township has been or shall hereafter be sold under surveys or subdivisions, made in a manner which so differs from that in which the land was surveyed or granted by the Crown, that the parcel sold cannot be easily identified, and the map or plan has not been registered under this or any other Act in that behalf, the council of the township may, at the written request of the inspector, or of any person interested, cause a plan of such land to be made and registered in the same manner and with the same effect as in the case of an unincorporated village; and the expenses attending the preparation of and filing of the map or plan shall be paid by a special rate to be levied by assessment on the lands comprised in said map or plan, as described in a by-law to be passed by the

Registration of plans of township subdivisions in certain cases.

council for the purpose of levying such rate; and the municipality shall have the like remedies for the recovering of such last mentioned expenses as it has for compelling payment of taxes.

Obligations
not impaired.

(4) Nothing in this section contained shall be deemed or construed to relieve any person from any liability, duty, obligation, or penalty provided or imposed by or under any of the provisions of section 63 of this Act. 50 V. c. 25, s. 68.

Plans of sur-
veys to be
deposited with
treasurer of
municipality.

69. Every person who is required by this Act to lodge with the registrar a plan or map of any survey or subdivision of land made by him, or of any alteration of such survey or subdivision, shall also, within three months from the date of the survey, lodge with the treasurer of the municipality in which the land is situate a duplicate or copy of such plan or map, and in case of neglect or refusal so to do, within two months after notice in writing given by such treasurer requiring him to lodge such plan as provided by this section, every such person shall incur a penalty of \$20 for each and every month during which the default shall continue. 50 V. c. 25, s. 69.

Penalty.

Surveyors to
keep regular
journals and
field-notes and
furnish copies
to parties
interested.

70. Every land surveyor shall keep exact and regular journals and field notes of all his surveys, and file them in the order of time in which the surveys have been performed, and shall give copies thereof to the parties concerned when so required, for which he is hereby allowed the sum of \$1 for each copy, if the number of words therein does not exceed four hundred words, but if the number of words exceeds four hundred, he is allowed ten cents additional for every hundred words over and above four hundred words. 50 V. c. 25, s. 70.

Surveyors may
administer
oaths for cer-
tain purposes.

71. For better ascertaining the original limits of any township, concession, range, lot, or tract of land, every land surveyor acting in this Province, shall and may administer an oath or oaths to each and every person whom he examines concerning any boundary, post or monument, or any original landmark, line, limit or angle of any township, concession, range, lot or tract of land which such surveyor is employed to survey. 50 V. c. 25, s. 71.

Evidence
taken by sur-
veyor to be re-
duced to
writing and
signed, etc.

72. All evidence taken by a surveyor as aforesaid shall be reduced to writing, and shall be read over to the person giving the same, and be signed by such person, or, if he cannot write, he shall acknowledge the same as correct before two witnesses, who, as well as the surveyor, shall sign the same; and such evidence shall, and any document or plan prepared and sworn to as correct before a Justice of the Peace, by a surveyor, with reference to any survey by him performed may be filed and kept in the registry office of the registry division in which the lands to which the same relates are situate, subject to be produced thereafter in evidence in any Court.

within Ontario; and for receiving and filing the same the registrar shall be entitled to twenty-five cents; and the expense of filing the same shall be borne by the parties in the same manner as the other expenses of the survey. 50 V. c. 25, s. 72. Fees.

[Section 31 of C. S. C. c. 77, is as follows:

31. If any person or persons, in any part of this province, interrupts, molests or hinders any land surveyor, while in the discharge of his duty as a surveyor, such person or persons shall be guilty of a misdemeanor, and being thereof lawfully convicted in any court of competent jurisdiction, shall be punished either by fine or imprisonment, or both, in the discretion of such court, such imprisonment being for a period not exceeding two months, and such fine not exceeding twenty dollars, without prejudice to any civil remedy which such surveyor or any other party may have against such offender or offenders, in damages by reason of such offence. 12 V. c. 35, s. 14. See Schedule C to R. S. C. p. 2317.] Penalty for obstructing land surveyors in the execution of surveys.

[Section 4 of C. S. U. C. c. 93, and section 107 of C. S. C. c. 77, consolidated in R. S. C. c. 168, ss. 56 and 57, are as follows:

56. Every one who knowingly and wilfully pulls down, defaces, alters or removes any mound, land mark, post or monument lawfully erected, planted or placed to mark or determine the boundaries of any Province, county, city, town, township, parish, or other municipal division, is guilty of felony, and liable to seven years' imprisonment. R. S. C. c. 168, s. 56. Defacing or removing land marks of Provinces, etc.,

57. Every one who knowingly and wilfully defaces, alters or removes any mound, land mark, post or monument lawfully placed by any land surveyor to mark any limit, boundary or angle of any concession, range, lot or parcel of land, is guilty of a misdemeanor, and liable to a fine not exceeding one hundred dollars, or to three months' imprisonment, or to both. And of concession, range, etc.

2. Nothing herein shall prevent any land surveyor in his operation from taking up posts or other boundary marks when necessary, if he carefully replaces them as they were before. R. S. C. c. 168, s. 57.] Exception as to land surveyors.

EXTRACT FROM LAND TITLES ACT.

Revised Statutes, (1887), cap. 116.

REGISTRATION OF NEWLY PATENTED LANDS IN DISTRICTS.

Letters Patent
granting land
to be sent to
Local Master.

141.—(1) When letters patent for any land situated in Algoma, Thunder Bay (including Rainy River), Muskoka, Parry Sound, or Nipissing are issued, the same shall be forwarded to the Local Master of Titles of the district, for the purpose of the patentee being entered as the first registered owner of the land, with any necessary qualification.

(2) Before making such entry the Local Master shall obtain from the registrar of the registry division a certificate stating what instruments, if any, have been registered affecting the land; and in case he finds that any such instrument has been registered, he shall give notice to the patentee and to all other persons interested, before registering the patentee as owner.

(3) In case there is no contest as to the rights of the parties the Local Master may make the requisite entry and issue his certificate; but in case of a contest, he shall transmit the papers to the Inspector of Titles before registering the patentee as owner, and shall otherwise proceed as provided in section 139 of this Act. 50 V. c. 16, s. 2.

Payment to
Assurance
Fund.

142.—(1) Before a certificate of ownership is issued, the patentee shall pay into the Assurance Fund, one quarter of one per cent. on the value of the land patented, unless he elects to have the amount made a charge on the land; and his failure to pay the amount prior to the issue of the certificate shall be deemed an election.

(2) In that case a note shall be made on the register and on the certificate that the land is liable to pay the assurance fee; and no subsequent transfer or charge of the land, or any transmission thereof, shall be registered until the same, namely, one quarter of one per cent. on the value of the land at the time of the entry of the transfer, charge or transmission has been paid into the Assurance Fund. 50 V. c. 16, s. 3.

Notice by
Master to
sheriff and
treasurer.

143.—(1) Upon an entry of ownership being made as aforesaid the Local Master of Titles shall, in the prescribed form, notify the sheriff in whose bailiwick the lands lie, of the entry of the patentee as owner, and shall, in the prescribed form, notify the treasurer of the municipality, if the land is situated in a municipality, of the fact that the land has become subject to this Act.

(2) The notices shall be sent by registered letter-post, and no entry of any dealing with the land shall be made in the register until fourteen days after the mailing of the notice, unless proof is previously made that the land is not liable to any execution or arrear of taxes.

(3) If within the fourteen days no copy of a writ of execution against the lands of the patentee is received from the sheriff, or no claim for arrear of taxes is received from the treasurer, the Local Master may assume that the land is not subject to any executions or taxes (other than taxes for the current year), and may enter subsequent dealings with the land accordingly; and as against such entry no claim shall afterwards be sustained in respect of an execution against the patentee, or in respect of any taxes against the land except for the current year or for a subsequent year.

(4) In case the Local Master receives from the treasurer a claim for taxes on the land, he shall enter the claim against the land, and all dealings with the land shall be subject to such claim. In case of executions affecting the land, an entry thereof shall be made in like manner, and all dealings with the land shall be subject to such executions.

(5) Where notices are not required to be given on account of instruments having been registered against the land, or otherwise, the Local Master shall be entitled to charge his actual disbursements.

(6) Where notices or other proceedings are necessary on account of instruments being registered, or on account of a caution having been lodged, or otherwise, the Local Master shall be entitled to charge in addition to his disbursements the like fees as are payable to the Master of Titles in respect of similar proceedings. 50 V. c. 16, s. 4.

*EXTRACT FROM SCHEDULE OF RULES UNDER
LAND TITLES ACT.*

Rev. Statutes of Ontario, (1887), cap. 116.

Plans.

51.—(1) An owner sub-dividing land for the purpose of selling or conveying the same in lots shall deposit with the Master of Titles a map of the land on a scale not less than one inch to every four chains, which shall be marked on the plan. The plan shall shew the number of the township, town or village lots, and range or concession as originally laid out, and all the boundary lines thereof within the limits of the land shewn on the said plan, and where the plan is a sub-division of a lot or lots on a former plan it shall shew the numbers or other distinguishing marks of the lot or lots sub divided and the boundary lines of such lot or lots. The plan shall also shew all roads, streets, lots and commons within the same, the

courses and widths thereof respectively, and the width and length of all lots, and the courses of all division lines between the respective lots within the same, together with such other information as is required to shew distinctly the position of the land being sub-divided. 48 V. c. 22, Rule 49.

(2) Every such plan shall be signed by the owner of the land or his agent, or when a corporation is the owner by the chief officer of the corporation, and shall be certified by a Provincial Land Surveyor in the form given in the schedule appended hereto.

(3) Every such plan shall be mounted on stiff pastaboard of good quality, and in case it exceeds thirty inches in length by twenty-four inches in width shall be folded so as not to exceed this size.

(4) The Master of Titles, before filing the plan, may require evidence to be given, explaining any seeming discrepancy between the measurements on the plan and the description of the land in the register, or may require evidence respecting any other matter which he considers requires to be explained. *New.*

52.—(1) In other cases the Master of Titles may require a person applying for registration under this Act, to deposit a map or plan of the land, with the several measurements marked thereon, certified by a licensed provincial surveyor and so many counterparts as may be required, and upon one of the following scales :—

(a) If the land, or the portion thereof proposed to be transferred or dealt with, is of less area than one acre, then the map or plan shall be on a scale not less than one inch to two chains.

(b) If the land, or the portion thereof proposed to be transferred or dealt with, is of greater area than one acre, but not exceeding five acres, then the map or plan shall be on a scale not less than one inch to five chains.

(c) If the land, or the portion thereof proposed to be transferred or dealt with, is of greater area than five acres, but not exceeding eighty acres, then the map or plan shall be on a scale not less than one inch to ten chains.

(d) If the land, or the portion thereof proposed to be transferred or dealt with, is of greater area than eighty acres, then the map or plan shall be on a scale of one inch to twenty chains.

(2) The owner shall sign the said plan and verify the accuracy of the same before any person authorized under section 112.

(3) If the owner neglects or refuses to comply with such requirements as aforesaid, the Master of Titles may refuse to proceed with the registration of the transfer or dealing.

(4) Subsequent sub-divisions of the same land may be delineated upon a duplicate of the map or plan of the same so deposited, if the same is upon a sufficient scale in accordance with the provisions herein contained ; and the correctness of the delineation of each such sub-division shall be acknowledged in the manner prescribed for the case of the deposit of an original map.

(5) Where parts of different legal sub-divisions are included in the same transfer, the map shall represent the whole of such legal sub-divisions, and shall indicate the location of the lands to be transferred ; this shall not be necessary in the case of lots in a city, town or village the plan of which has been registered unless the Master shall otherwise direct. 48 V. c. 22, Rule 50.

LIST OF **LOCAL ACTS RELATING TO SURVEYS IN ONTARIO.**

	A. D.	A. R.	Cap.
Aldbrough, survey of, established	1853	16 Vic.	225
Albion and King, provisions of 22 Vic. cap. 59, extended to	1870-71	34 Vic.	60
Ameliasburgh, Wilmot's survey established	1850	18-14 Vic.	88
Ancaster and Flamborough, West, establishing division lines between townships	1825	6 Geo. 4th.	5
Bedford, Benson's survey established	1854	18 Vic.	25
Bedford, how side lines to be run	1864	27-28 Vic.	80
Beverley, Kirkpatrick's survey established	1853	16 Vic.	230
Beverley, 16 Vic. cap. 230, revived, continued and amended	1855	18 Vic.	173
Beverley, certain side lines and side roads confirmed ..	1860	23 Vic.	100
Binbrook and Saltfleet, settling difficulties in	1831	1 Wm. 4th.	8
Binbrook and Saltfleet, Act amended	1837	7 Wm. 4th.	59
Bosanquet and McGillivray, D. S. Campbell's survey of part legalized and substituted for Rath's survey ..	1877	40 Vic.	47
Boundary between Ontario and Quebec	1874	38 Vic.	5
Burford, to establish and define certain road allowances, etc	1861	24 Vic.	66
Caistor and Howard, to confirm and establish road allowances	1859	22 Vic.	83
Caistor, Hood's survey of 2nd concession confirmed	1859	22 Vic.	85
Caledon, Wheelock's survey confirmed	1878	41 Vic.	32
Chatham and Camden, to establish boundary lines in front of lots on River Thames	1837	7 Wm. 4th.	58
Chatham Town, Kirk and Salter's re-survey confirmed. .	1869	33 Vic.	66
Clarke, to establish part of 7th and 8th concessions, from lot 1 to 10	1857	20 Vic.	116
Colchester, Rankin's survey of certain lots in 4th concession legalized and confirmed	1873	36 Vic.	61
Cornwall, survey between 7th and 8th concessions	1830	11 Geo. 4th.	15
Cornwall, east boundary of 3rd concession	1843	7 Vic.	42
Cornwall, part of 9th concession	1850	13-14 Vic.	84
Cornwall, to declare valid a certain survey of part of Town of	1854	18 Vic.	29
Cornwall, to declare valid a certain survey of part of Town of	1884	47 Vic.	50
Cramahe, ascertaining side lines of lots in, and correction of eastern side line of Township	1823	4 Geo. 4th.	35
Crowland, DeCrew's survey of 3rd and 4th concessions set aside	1862	25 Vic.	42
Cumberland, mode in which side line in 1st concession, old survey, shall be run	1860	23 Vic.	101
Darlington, to authorize a survey of broken front concession	1856	19 Vic.	67

	A. D.	A. R.	Cap.
Dorchester, North, to establish boundary lines of certain concessions, lots and side lines, Peters and McMillan's verification survey confirmed	1863	26 Vic.	50
Dundas, Town, to close Rosina Street	1871-2	35 Vic.	69
Edwardsburgh, side lines in	1850	13-14 Vic.	85
Eldon, Hanning's survey of part of line between 4th and 5th concessions confirmed	1874	38 Vic.	41
Elmaley and Montague, line between, in 4th concession.	1847	10-11 Vic.	53
Elmaley and Montague, 10 and 11 Vic. cap. 53, repealed.	1849	12 Vic.	102
Elora, closing of certain streets authorized, Gilkison's survey partially annulled	1869	33 Vic.	69
Emily, how side lines shall be run	1873	36 Vic.	60
Ernestown and Fredericksburgh, relative to survey of Gore between	1884	4 Wm. 4th.	20
Etobicoke and Toronto Gore, to establish true location of road allowance	1853	22 Vic.	59
Fitzroy, how side lines of certain lots shall be run	1863	26 Vic.	14
Flamborough West, and Ancaster, establishing division lines between Townships	1825	6 Geo. 4th.	5
Fredericksburgh, survey of 1st 2nd and 3rd concessions, etc	1826	7 Geo. 4th.	16
Fredericksburgh and Ernestown, relative to survey of Gore between	1834	4 Wm. 4th.	20
Free Grant and Homestead Act	1868	31 Vic.	8
Free Grant and Homestead Act amended	1868-9	32 Vic.	20
Free Grants and Homesteads Act—Revised	1887	R. S. O.	25
Gloucester, course of sidelines in the Gore	1846	9 Vic.	49
Goderich, Gibson's survey of 1828-9 confirmed	1861	24 Vic.	66
Grimsby, Rykert's survey of concession line between Gore A and 8th concession confirmed	1860	23 Vic.	99
Gwillimbury, North, establishing side lines	1833	3 Wm. 4th.	38
Hamilton, line between 7th and 8th concessions established	1855	18 Vic.	172
Hamilton, 18 Vic. cap. 172, repealed	1858	22 Vic.	78
Hamilton, City, to close certain streets	1871-2	35 Vic.	68
Hamilton, to establish certain road allowances and highways	1865	29 Vic.	72
Harvey, certain bearings established as true courses of side lines in	1882	45 Vic.	35
Hillier, Wilmot's survey established	1855	18 Vic.	151
Hope, to confirm D. S., I. Huston's survey of part of 7th concession	1858	22 Vic.	60
Hope, G. A. Stewart's survey set aside	1858	22 Vic.	60
Howard and Caistor, to confirm and establish road allowances	1859	22 Vic.	83
Huntley, how side lines shall be run	1870-1	34 Vic.	61
Kennebec, new survey confirmed	1890	53 Vic.	86
Kenyon, side roads established	1862	25 Vic.	43
King, authorizing new survey	1835	5 Wm. 4th.	20
King and Albion, provisions of 22 Vic. cap. 59, extended to.	1870-1	34 Vic.	60
King, to confirm certain side roads, etc.	1864	27-28 Vic.	79
Kingston, City, to close up part of Union Street	1874	38 Vic.	44
Lancaster, to provide for guiding lines	1829	10 Geo. 4th.	13

	A. D.	A. R.	Cap.
Line Fences, Act as to	1874	37 Vic.	85
Line Fences, Act as to, amended	1877	40 Vic.	8, s. 58. 29
London, City, relative to certain streets	1868-9	32 Vic.	73
London, City, to close part of Church Street	1870-1	34 Vic.	64
Louth, establishing lines in	1834	4 Wm. 4th.	21
Madoc to vest a road allowance, etc., in S. D. Russell.	1861	24 Vic.	138
Matilda, Bruce's survey of part confirmed	1877	40 Vic.	48
Melancthon, Passmore's re-survey of part confirmed ..	1869	33 Vic.	67
McGillivray, Township Council may dispose of certain road allowances	1857	20 Vic.	112
McGillivray and Bosanquet, D. S. Campbell's survey of part legalized and substituted for Rath's survey ..	1877	40 Vic.	47
Monaghan, line of park lots established	1853	16 Vic.	228
Monaghan, 16 Vic. cap. 228, repealed	1855	18 Vic.	154
Montague and Elmsley line between in 4th concessions.	1847	10-11 Vic.	53
Montague and Elmsley, 10 and 11 Vic. cap. 53, repealed.	1849	12 Vic.	102
Municipalities, Rural, to provide for disposal of road allowances in	1857	20 Vic.	69
Niagara, to ascertain north boundary line	1832	2 Wm. 4th.	19
Niagara, to confirm a portion of original survey	1855	18 Vic.	156
Nissouri East, and East and West Zorra, Township councils may dispose of certain road allowances ..	1857	20 Vic.	111
Norwich, settling roads and lines in	1855	5 Wm. 4th.	26
Onondaga, to alter survey of part of 3rd concession, called Martin's Bend, and to confirm a new survey thereof	1856	19-20 Vic.	109
Osgoode, course of side lines in	1847	10-11 Vic.	54
Osgoode, 10 and 11 Vic. cap. 54, amended	1850	13-14 Vic.	86
Osnaburck, establishing division lines between 2nd and 3rd concessions	1822	2 Geo. 4th.	14
Ottawa, to confirm the survey of certain parts	1861	24 Vic.	53
Oxford, survey of part of	1829	10 Geo. 4th.	14
Oxford West, Smiley's survey confirmed	1870-1	34 Vic.	62
Peterborough, line of park lots established	1853	16 Vic.	228
Peterborough, repeal of 16 Vic. cap. 228	1855	18 Vic.	154
Port and, A. B. Perry's survey of certain concessions confirmed	1870-1	34 Vic.	63
Protection of persons improving land under a mistake of title	1873	36 Vic.	22
Public Highways and Roads, to provide for the laying out of	1810	50 Geo. 3rd.	1
Reach, certain roads confirmed	1862	25 Vic.	40
Reach to extend provisions of 25 Vic. cap. 40	1866	29-30 Vic.	83
Roads and Public Highways, to provide for the laying out of	1810	50 Geo. 3rd.	1
Romney, to alter a certain side road	1873	36 Vic.	58
Romney and Tilbury East, to alter the town line in part between	1874	88 Vic.	43
Ross and Westmeath, allowance for road for each blank alternate concession	1874	38 Vic.	42
Saltfleet and Binbrook, settling difficulties in	1831	1 Wm. 4th.	8

	A. D.	A. R.	Cap.
Saltfleet and Binbrook, Act amended	1837	7 Wm. 4th.	59
Sandwich East, F. L. Foster's line of road in rear of 3rd concession confirmed	1874	37 Vic.	81
Sandwich West, E. R. Jones's line between 2nd and 3rd concession confirmed	1874	37 Vic.	82
Scarborough, side road confirmed and defined	1862	25 Vic.	38
Seymour, Campbell's survey confirmed, north-east of Trent River and north-west of Crow River	1868-9	32 Vic.	16
Sophiasburgh, to establish survey of side lines in 2nd concession	1834	4 Wm. 4th.	19
Smith, course of side lines established	1855	18 Vic.	153
Sunnidale, to confirm a certain survey	1887	50 Vic.	67
Tilbury East, to confirm certain side roads, etc.	1869	33 Vic.	68
Tilbury East, and Romney, to alter the town line in part between	1874	38 Vic.	43
Torbolton, how side lines shall be run	1859	22 Vic.	84
Toronto, City, to settle the northern bounday line of the City	1856	19-20 Vic.	96
Toronto Gore and Etobicoke, to establish true locatio of road allowance	1858	22 Vic.	59
Townsend, re-survey of part of 13th concession	1826	7 Geo. 4th.	15
Vaughan, certain side roads confirmed in	1860	23 Vic.	102
Walpole and Woodhouse, line between, commissioner to establish	1849	12 Vic.	101
Walpole and Woodhouse, 12 Vic. cap. 101, revived ..	1850	13-14 Vic.	89
Westmeath and Ross, allowance for road for each blank alternate concession line	1874	38 Vic.	42
Whitby and East Whitby, permanent establishment of certain side lines	1873	36 Vic.	59
Winchester, to confirm present survey	1855	18 Vic.	155
Winchester, road allowances established on south side of concession lines	1890	53 Vic.	112
Wolford to establish boundary line	1835	5 Wm. 4th.	21
Wolford, to make valid certain by-laws of corporation, etc.	1870-1	34 Vic.	56
Wolfe Island, course of side lines in	1855	18 Vic.	152
Yonge, to correct survey of 5th concession	1830	11 Geo. 4th.	16
Zorra, East and West, and East Nissouri, Township councils may dispose of certain road allowances ..	1857	20 Vic.	111

SPECIMEN FORM OF ARTICLES OF AGREEMENT.

BETWEEN SURVEYOR AND APPRENTICE.

THESE ARTICLES OF AGREEMENT made the _____ day of _____
 one thousand eight hundred and _____, between
 A. B., of _____ a Provincial Land Surveyor, of the Province of
 Ontario, now practising in the capacity of a Provincial Land Surveyor in the
 Province of Ontario, of the one part, and C. D., of _____
 and E. F., son of the said C. D., of the other part, witness :

That the said E. F., of his own free will, and by and with the consent and
 approbation of the said C. D., doth by these presents, place and bind himself
 pupil or apprentice to the said A. B., to serve him as such from the day of the
 date hereof, for, and during, and until the full end and term of three years from
 hence next ensuing, and fully to be completed and ended.

And the said C. D., doth hereby for himself, his heirs, executors, and
 administrators, covenant with the said A. B., his executors, administrators, and
 assigns, that the said E. F., shall well and faithfully, and diligently, according
 to the best and utmost of his power, serve the said A. B. as his pupil, or appren-
 tice in the practice or profession of a Provincial Land Surveyor, for the Province
 of Ontario, which he the said A. B. now followeth ; and shall continue
 with him from the day of the date hereof, for and during, and until the full
 end of the said term of three years ; and that he, the said E. F., shall not at any
 time, during such term, cancel, obliterate, injure, spoil, destroy, waste, embezzle,
 spend, or make away with any of the books, papers, writings, documents, maps,
 plans, drawings, field notes, moneys, chattels, or other property of the said A. B.,
 his executors, administrators, or assigns, or his partner or partners, or any of
 his clients or employers ; and that in case the said E. F. shall act contrary to the
 last mentioned covenant, or if the said A. B., his executors, administrators or
 assigns, or his partner or partners, shall sustain or suffer any loss or damage by
 the misbehaviour, neglect, or improper conduct of the said E. F., the said C. D.,
 his heirs, executors, or administrators, will indemnify the said A. B., his exe-
 cutors, administrators, or assigns, and make good and reimburse him or them
 the amount or value thereof : And further, that the said E. F., shall, at all times,
 during the said term, and afterwards, keep the secrets of the said A. B., and his
 partner or partners, and of his and their clients, and employers, in all matters
 relating to the said business and profession, and will at all times, during the
 said term, be just, true and faithful to the said A. B., in all matters and things,
 and from time to time pay all moneys which he shall receive of, or belonging-
 to, or by order of the said A. B. into his hands, and make and give true and fair
 accounts of all his acts and doings whatsoever, in the said business and profession,
 without fraud or delay, when and so often as he shall thereto be required ; and
 will readily and cheerfully obey and execute his lawful and reasonable commands,
 and shall not depart or absent himself from the service or employ of the said
 A. B., at any time during the said term without his consent first had and obtained,
 and shall from time to time, and at all times during the said term, conduct him-
 self with all due diligence and with honesty and sobriety ; and the said E. F.,
 doth hereby for himself, covenant with the said A. B., his executors, adminis-
 trators and assigns, that he the said E. F., will truly, honestly, and diligently,

serve the said A. B., at all times, for, and during the said term, as a faithful apprentice ought to do, in all things whatsoever, in the manner above specified.

In consideration whereof, and of of lawful money, by the said C. D., to the said A. B., paid at or before the sealing and delivery of these presents (the receipt whereof is hereby acknowledged), the said A. B., for himself, his heirs, executors, and administrators, doth covenant with the said C. D., his heirs, executors, and administrators, that the said A. B., will accept and take the said E. F., as his pupil or apprentice, and that he, the said A. B., will, by the best ways and means he may or can, and to the utmost of his skill and knowledge, teach and instruct, or cause to be taught and instructed, the said E. F. in the art, practice, and profession of a Provincial Land Surveyor for the Province of Ontario, and in all things whatsoever, incident or belonging thereto, in such manner as he the said A. B. now, or any time hereafter, during the said term, shall use and practice, and also, will provide the said E. F. with all the necessary and reasonable expenses incurred in transacting or performing the business of the said A. B., and also will, at the expiration of the said term, give to the said E. F. a certificate of servitude, and use his best means and endeavours, at the request, costs, and charges of the said C. D. and E. F., or either of them, to cause and procure him, the said E. F. to be examined before the Board of Examiners of Land Surveyors for Ontario; Provided the said E. F. shall have well, faithfully, and diligently served his intended apprenticeship.

And for the true performance of all and every the covenants and agreements aforesaid, according to the true intent and meaning thereof, each of them, the said A. B., and C. D., doth bind himself, his heirs, executors, and administrators, unto the other, his heirs, executors, administrators and assigns, in the penal sum of Five Hundred Dollars, firmly by these presents.

In witness whereof, the parties aforesaid have hereunto set their hands and seals, the day and year first above written.

Signed, sealed, and delivered, }
in the presence of

_____ G. H.

A. B. [Seal]

_____ J. K.

C. D. [Seal]

E. F. [Seal]

EXTRACT FROM MUNICIPAL ACT.

(Revised Stats., cap. 184.)

TITLE II.—POWERS AND DUTIES OF COUNCILS AS TO HIGHWAYS AND BRIDGES.

DIVISION I.—GENERAL PROVISIONS.

Highways defined. Sec. 524.*Freehold in Crown.* Sec. 525.*Jurisdiction of Councils.* Sec. 526.*Possession in Municipalities.* Sec. 527.*Acquiring Roads for Public Avenues.* Sec. 528.*Assumption of County Bridges by Villages.* Sec. 529.*Liability for Repairs.* Secs. 530, 531.*County Roads and Bridges.* Secs. 532, 533.*Improving and Maintaining County Roads.* Secs. 534, 535.*Maintaining Township Roads.* Secs. 536, 537.*Roads under Joint Jurisdiction.* Secs. 538-540.*Transfer of former Powers of Justices in Sessions to County Councils.* Sec. 541.*Roads vested in Her Majesty.* Sec. 542.*Roads on Dominion Lands.* Sec. 543.*Roads necessary for ingress and egress.* Sec. 544.*Width of Roads.* Sec. 545.*Notices of By-laws affecting Public Roads.* Sec. 546.*Registration of Road By-laws.* Sec. 547.*Disputes respecting Roads—Administration of Oaths.* Sec. 548.*Mistakes in opening Road Allowances.* Sec. 549.*Highways Defined.*

524. All allowances made for roads by the Crown surveyors in any town, township or place already laid out or hereafter laid out; and also all roads laid out by virtue of any statute, or any roads whereon the public money has been expended for opening the same, or whereon the statute labour has been usually performed, or any roads passing through the Indian lands, shall be deemed common and public highways, unless where such roads have been already altered, or may hereafter be altered according to law. 46 V. c. 18, s. 524. See Cap. 162, secs. 44, 45, 62 (1).

What shall constitute public highways.

Freehold in the Crown.

Certain high-ways, etc., vested in the Crown.

525. Unless otherwise provided for; the soil and freehold of every highway or road altered, amended or laid out according to law, shall be vested in Her Majesty, Her Heirs and Successors. 46 V. c. 18, s. 525.

Jurisdiction of Municipal Councils.

Jurisdiction of councils over roads, etc.

526. Subject to the exceptions and provisions hereinafter contained, every municipal council shall have jurisdiction over the original allowances for roads and highways and bridges within the municipality. 46 V. c. 18, s. 526.

Possession in Municipalities.

Streets in cities, townships, towns and incorporated villages vested in municipalities subject to certain rights.

527. Every public road, street, bridge or other highway, in a city, township, town or incorporated village, shall be vested in the municipality, subject to any rights in the soil which the individuals who laid out such road, street, bridge or highway reserved, and except any concession or other road within the city, township, town or incorporated village, taken and held possession of by an individual in lieu of a street, road or highway laid out by him without compensation therefor. 46 V. c. 18, s. 527.

Acquiring Roads for Public Avenues.

Acquiring roads and lands for public avenue or walk.

528. The council of every city and town may respectively pass by-laws for acquiring and assuming possession of and control over, any public highway or road in an adjacent municipality by and with the consent of such municipality, the same being signified by a by-law passed for that purpose, for a public avenue or walk;

And for acquiring from the owners of the land adjacent to such highway or road, such land as may be required on either side of such highway or road to increase the width thereof to the extent of 100 feet or less, subject to the provisions of section 483 of this Act. 46 V. c. 18, s. 528.

Assumption of County Bridges by Villages.

Assumption by villages of bridges under control of county.

529. The councils of every county and incorporated village may pass by-laws for carrying out any arrangement between them for the assumption, by the village municipality, of any bridge within its limits, under the jurisdiction of the county council, and for such bridge being toll free; and for the payment by the village municipality to the county municipality of any part of the cost of the construction of such bridge;

After the passing of such by-laws the bridge shall be, and remain, under the exclusive jurisdiction of the village muni-

cipality; and the village municipality shall be subject to all the liabilities in the premises, which but for the transfer would have devolved on the county municipality; and the bridge shall be and remain toll free. 46 V. c. 18, s. 529.

Liability for Repairs.

530. The approaches for 100 feet to and next adjoining each end of all bridges belonging to, assumed by, or under the jurisdiction of any municipality or municipalities, shall be kept up and maintained by such municipality or municipalities: the remaining portion or portions of such approaches shall be kept up and maintained by the local municipalities in which they are situate. 46 V. c. 18, s. 530.

Approaches to bridges.

531.—(1) Every public road, street, bridge and highway shall be kept in repair by the corporation, and on default of the corporation so to keep in repair, the corporation shall, besides being subject to any punishment provided by law, be civilly responsible for all damages sustained by any person by reason of such default, but the action must be brought within three months after the damages have been sustained.

Liability for repair of public roads, etc.

Limitation of actions.

(2) This section shall not apply to any road, street, bridge or highway laid out by any private person, and the corporation shall not be liable to keep in repair any such last mentioned road, street, bridge or highway, until established by by-law of the corporation, or otherwise assumed for public user by such corporation. 46 V. c. 18, s. 531.

To what roads applicable.

(3) The corporation shall, in the absence of an agreement to the contrary, keep in repair all crossings, sewers, culverts and approaches, grades, sidewalks and other works made or done by the council of any municipality, or by any person with the permission of the said council, upon any toll road in or through the said municipality, and on default so to keep in repair shall be responsible for all damages sustained by any person by reason of such default, but the action must be brought within three months after the damages have been sustained. 47 V. c. 32, s. 17; 48 V. c. 39, s. 21.

Repair of crossings, etc., made by leave of municipality on toll roads.

(4) In case an action is brought against a municipal corporation to recover damages sustained by reason of any obstruction, excavation or opening in a public highway, street or bridge placed, made, left or maintained by another corporation or by any person other than a servant or agent of the municipal corporation, the last mentioned corporation shall have a remedy over against the other corporation or person for and may enforce payment accordingly of the damages and costs, if any, which the plaintiff in the action may recover against the municipal corporation; provided nevertheless that the municipal corporation shall only be entitled to the said remedy over if the other corporation or person shall be or be made a party to the action.

Remedy in case of damages for injury caused by parties other than the corporation sued.

and if it shall be established in the action as against the other corporation or person that the damages were sustained by reason of an obstruction, excavation or opening as aforesaid placed, made, left or maintained by the other corporation or person; and the municipal corporation may in such action have the other corporation or person added as a party defendant or third party for the purposes hereof if the same is not already a defendant in the action jointly with the municipal corporation and the other corporation or person may defend such action as well against the plaintiff's claim as against the claim of the municipal corporation to a remedy over; and the Court or Judge upon the trial of the action may order costs to be paid by or to any of the parties thereto or in respect of any claim set up therein as in other cases. 50 V. c. 29, s. 33.

County Roads and Bridges.

Jurisdiction of county councils over roads and bridges.

532. The county council shall have exclusive jurisdiction over all roads and bridges lying within any township, town or village in the county, and which the council by by-law assumes with the assent of such township, town or village municipality as a county road, or bridge, until the by-law has been repealed by the council, and over all bridges across streams separating two townships in the county, and over all bridges crossing streams or rivers over 100 feet in width, within the limits of any incorporated village in the county, and connecting any main highway leading through the county, and over all bridges over rivers forming or crossing boundary lines between two municipalities. 46 V. c. 18, s. 532; 50 V. c. 29, s. 34.

Boundary lines may be maintained by county.

533. Any county council may assume, make and maintain any township or county boundary line at the expense of the county, or may grant such sum or sums from time to time for the said purposes as they may deem expedient. 46 V. c. 18, s. 533.

Improving and Maintaining County Roads.

Roads or bridges assumed by county councils.

534. When a county council assumes, by by-law, any road or bridge within a township as a county road or bridge, the council shall, with as little delay as reasonably may be, and at the expense of the county, cause the road to be planked, gravelled or macadamized, or the bridge to be built in a good and substantial manner; and further the county council shall cause to be built and maintained in like manner, all bridges on any river or stream over 100 feet in width, within the limits of any incorporated village in the county, necessary to connect any main public highway leading through the county. 46 V. c. 18, s. 534; 50 V. c. 29, s. 35.

Maintenance of certain bridges in villages.

535.—(1) It shall be the duty of county councils to erect and maintain bridges over rivers forming or crossing boundary lines between two municipalities (other than in the case of a city or separated town) within the county; and in case of a bridge over a river forming or crossing a boundary line between two or more counties or a county, city or separated town, such bridge shall be erected and maintained by the councils of the counties or county, city and separated town respectively; and in case the councils fail to agree as to the respective portions of the expense to be borne by the municipalities interested, it shall be the duty of each to appoint arbitrators as provided by this Act, to determine the proportionate amount to be paid by each, and the award made shall be final. Bridges between municipalities.

(2) A road which lies wholly or partly between two municipalities shall be regarded as a boundary line within the meaning of this section, although such road may deviate so that it is in some place or places wholly within one of the municipalities, and a bridge built over a river crossing such road where it deviates as aforesaid shall be held to be a bridge over a river crossing a boundary line within the meaning of this section. 48 V. c. 39, s. 22.

Maintaining Township Roads.

536. All township boundary lines not assumed by the county council shall be opened, maintained and improved by the township councils, except where it is necessary to erect or maintain bridges over rivers forming or crossing boundary lines between two municipalities. Boundary lines not assumed by county councils. 46 V. c. 18, s. 536.

537. Township boundary lines forming also the county boundary lines, and not assumed or maintained by the respective counties interested, shall be maintained by the respective townships bordering on the same, except where it is necessary to erect or maintain bridges over rivers forming or crossing boundary lines between two municipalities. Township boundaries, being also county boundaries. 46 V. c. 18, s. 537.

Roads under Joint Jurisdiction.

538. In case a road lies wholly or partly between a county, city, town, township or incorporated village, and an adjoining county or counties, city, town, township or incorporated village, the councils of the municipalities between which the road lies shall have joint jurisdiction over the same although the road may so deviate as in some places to be wholly or in part within one or either of them; and the said road shall not include a bridge over a river forming or crossing the boundary line between two municipalities, other than counties. Joint jurisdiction over certain roads. 46 V. c. 18, s. 538.

Both councils must concur in by-laws respecting them.

539. No by-law of the council of any one of such municipalities with respect to such last mentioned road or bridge, shall have any force until a by-law has been passed in similar terms, as nearly as may be, by the other council or councils having joint jurisdiction in the premises. 46 V. c. 18, s. 539.

Arbitration if they do not concur.

540. In case the other council or councils, for six months after notice of the by-law, omit to pass a by-law or by-laws in similar terms, the duty and liabilities of each municipality in respect to the road or bridge shall be referred to arbitration under the provisions of this Act. 46 V. c. 18, s. 540.

Transfer of former Powers of Justices in Sessions to County Councils.

Certain powers of justices in sessions transferred to county councils.

541. All powers, duties and liabilities which at any time before the 1st day of January, 1850, belonged to the magistrates in Quarter Sessions, with respect to any particular road or bridge in a county, and are not conferred or imposed upon any other municipal corporation, shall belong to the council of the county, or in case the road or bridge lies in two or more counties, to the councils of such counties; and the neglect and disobedience of any regulations or directions made by such council or councils shall subject the offenders to the same penalties and other consequences as the neglect or disobedience of the like regulations of the magistrates would have subjected them to. 46 V. c. 18, s. 541.

Roads vested in Her Majesty.

Roads, etc., provincial works vested in Her Majesty, etc., not to be interfered with.

Proclamation by Lieut.-Gov. as to roads, etc., under control of Commissioner of Public Works.

542. No council shall interfere with any public road or bridge vested as a Provincial work in Her Majesty, or in any public department or board, and the Lieutenant-Governor shall by order in Council have the same powers as to such road and bridge as are by this Act conferred on municipal councils with respect to other roads and bridges: but the Lieutenant-Governor may, by proclamation, declare any public road or bridge, under the control of the Commissioner of Public Works, to be no longer under his control, and in that case, after a day named in the proclamation, the road or bridge shall cease to be under the control of the Commissioner, and no tolls shall be thereafter levied thereon by him, and the road or bridge shall thenceforth be controlled and kept in repair by the council of the municipality. 46 V. c. 18, s. 542.

Roads on Dominion Lands.

543. No council shall pass a by-law—

Ordnance roads, lands, etc.,

1. For stopping up or altering the direction or alignment of any street, lane or thoroughfare made or laid out by Her Majesty's Ordnance, or the Principal Secretary of State in whom the Ordnance Estates became vested under the Statute

of the Province of Canada passed in the 19th year of Her Majesty's reign, chapter 45, or the Consolidated Statute of Canada, chapter 24, respecting the Ordnance and Admiralty lands, or by the Dominion of Canada; or

2. For opening any such communication through any lands held by the Dominion of Canada; or

3. Interfering with any bridge, wharf, dock, quay or other work vested in the Dominion of Canada; or

4. Interfering with any land reserved for military purposes, or with the integrity of the public defences,—

without the consent of the Government of the Dominion of Canada; and a by-law for any of the purposes aforesaid shall be void unless it recites such consent. 46 V. c. 18, s. 543.

19 V. c. 45;
Con. Stat.
Can. c. 24.
See R. S. C. c.
55.

Dominion
lands,

Bridges, etc.,

Military lands.

Not to be in-
terfered with
without con-
sent of
Dominion.

Roads necessary for Ingress and Egress.

544.—(1) No council shall close up any public road or highway, whether an original allowance or a road opened by the Quarter Sessions or any municipal council, or otherwise legally established, whereby any person will be excluded from ingress and egress to and from his lands or place of residence over such road, unless the council, in addition to compensation, also provides for the use of such person some other convenient road or way of access to the said lands or residence. 46 V. c. 18, s. 544.

Council not to
close road
required for
ingress, egress,
etc.

Proviso.

(2) If the compensation offered by the council, to the owner of the lands, or the road provided for the owner in lieu of the original road, as a means of egress and ingress, is not mutually agreed upon between the council and the owner or owners, (as the case may be), then in such case, the matters in dispute shall be referred to arbitration, under the provisions of this Act respecting arbitration. 49 V. c. 37, s. 15.

Width of Roads.

545. No council shall lay out any road or street more than 100 nor less than 66 feet in width, except where an existing road or street is widened, or unless with the permission of the council of the county in which the municipality is situate; but any road, when altered, may be of the same width as formerly, and no highway or street shall be laid out by any owner of land of a less width than 66 feet, without the consent of the council of the municipality. 46 V. c. 18, s. 545.

Width of
roads.

Notices of By-laws affecting Public Roads.

546. No council shall pass a by-law for stopping up, altering, widening, diverting or selling any original allowance for road, or for establishing, opening, stopping up, altering, widening, diverting or selling any other public highway, road, street or lane;

Conditions
precedent to
passing by-
laws intended
to affect pub-
lic roads.

Notices to be posted up.

1. Until written or printed notices of the intended by-law have been posted up one month previously in six of the most public places in the immediate neighbourhood of such original allowance for road, street or other highway, road, street or lane ;

And published in a newspaper.

2. And published weekly for at least four successive weeks in some newspaper (if there be any) published in the municipality ; or if there be no such newspaper, then in a newspaper published in some neighbouring municipality ; and, in either case, in the county town, if any such there be ;

Parties prejudicially affected to be heard.

3. Nor until the council has heard, in person or by counsel or solicitor, any one whose land might be prejudicially affected thereby, and who petitions to be so heard ;

Clerk to give the notices on payment of expenses.

4. And the clerk shall give such notices, at the request of the applicant for the by-law, upon payment of the reasonable expenses attendant on such notices. 46 V. c. 18, s. 546

Provision where price settled by agreement.

5. In case the council of a township or an incorporated village, and property owners interested in lands required to be taken possession of, for establishing a public road, mutually agree as to the recompense or price of such lands, the council may accept a deed or deeds for the same, which shall be registered as provided by section 547 of this Act, and in such case the publication of any by-law in the manner required by sub-section 2 shall be dispensed with. 50 V. c. 29, s. 37.

Registration of Road By-laws.

By-laws under which roads are opened on private property to be registered.

547.—(1) Every by-law passed since the 29th day of March, 1873, or hereafter to be passed by any municipal council under the authority of which any street, road or highway has been, or is, opened upon any private property, shall, before the same becomes effectual in law, be duly registered in the registry office of the registry division in which the land is situate ; and for the purpose of registration a duplicate original of the by-law shall be made out, certified under the hand of the clerk and the seal of the municipality, and shall be registered without any further proof.

As to by-laws passed before 29th March, 1873.

(2) Every by-law passed before the said day, and every order and resolution of the Quarter or General Sessions, passed before said day, under the authority of which any street, road or highway has already been opened upon any private property, may, at the election of any party interested, and at the cost and charges of such party or municipality, be also duly registered, upon the production, to the registrar, of a duly certified copy of the by-law under the hand of the clerk of the municipality and the seal of the municipality, or by a duly certified copy of such order or resolution of the Quarter or

General Sessions, given under the hand of the clerk of the peace, as the case may be. 46 V. c. 18, s. 547. *See also* Cap. 114, s. 75.

Disputes respecting Roads—Administration of Oaths.

548. In case of disputes in any municipality concerning roads, allowances for roads, side lines, boundaries or concessions, within the cognizance of and in the course of investigation before a municipal council, the head of the council may administer an oath or affirmation to any party or witness examined upon the matters in dispute. 46 V. c. 18, s. 548. Power to administer oaths in certain cases.

Mistakes in Opening Road Allowances.

549.—(1) In case any municipality in whose jurisdiction an original road, or allowance for road is situate, shall open that which they take and believe to be the true site of the same, and in case the municipality, their officers and servants, shall act in good faith, and shall take all reasonable means to inform themselves of the correctness of their line and work, and in case it appears that the road being opened, although not or not altogether upon the true line of the original road, or allowance for road, is nevertheless, from any difficulty in discovering correctly the true line, as near to, or as nearly upon, the true line as under the circumstances could then be ascertained, no action shall be brought by any person against the municipality, their officers or servants, for or in respect of the opening of such road, or allowance for road, or for any other act or matter whatsoever connected with or arising from the same. Municipality and officers thereof protected from actions arising from mistakes in opening road allowances

(2) The municipality shall, however, in any case respecting the opening of an original road, or road allowance, make to any person having title to or interest in the same, reasonable compensation in full of all claims, and as a final settlement of the same: Provided the claims for such compensation shall be made within one year from the time of the laying out or taking possession of such road by the municipality or its officers, or the part thereof in respect of which compensation is claimed, and in the event of the parties not agreeing as to the amount or terms of such compensation, the same shall be ascertained and the payment thereof enforced, under the provisions of this Act relating to arbitrations. 46 V. c. 18, s. 549. Municipality to make compensation. Provision.

DIVISION II.—POWERS OF COUNTIES, TOWNSHIPS, CITIES,
TOWNS AND INCORPORATED VILLAGES IN RELATION
TO ROADS AND BRIDGES.

General Powers. Sec. 550 (1, 2).

Respecting Tolls. Sec. 550 (3-5).

“ *Timber, Stone. etc., on Road Allowances. Sec. 550 (6).*

“ *Privileges to Road or Bridge Companies. Sec. 550 (7).*

“ *Procuring Materials for Constructing or Repairing Roads. Sec. 550 (8).*

“ *Road Allowances. Secs. 550 (9), 551-553.*

“ *Aid to adjoining Municipalities in Making Roads or Bridges. Sec. 554.*

By-laws may be made for— **550.** The council of every county, township, city, town and incorporated village may pass by-laws—

General Powers.

Opening or stopping up roads, etc.

1. For opening, making, preserving, improving, repairing, widening, altering, diverting or stopping up roads, streets, squares, alleys, lanes, bridges, or other public communications within the jurisdiction of the council, and for entering upon, breaking up, taking or using any land in any way necessary or convenient for the said purposes, subject to the restrictions in this Act contained; and for preventing and removing any obstruction upon any roads or bridges within its jurisdiction, and also for permitting sub-ways for cattle under any highway;

Roads across railway lands

2. For establishing, opening, making, preserving, improving, maintaining, widening, enlarging, altering, diverting or stopping up, within the limits of the municipality, any highway through, over, across, under, along, or upon the railway and lands of any railway company, and for entering upon, breaking up, taking or using any such land in any way necessary or convenient for the said purpose; but subject to the provisions contained in *The Railway Streets and Drains Act*, and provided that the highway is within the jurisdiction of the council;

Rev. Stat. c. 199.

Tolls.

Raising money by toll.

3. For raising money by toll on any bridge, road or other work, to defray the expense of making or repairing the same

Making regulations as to dangerous places.

4. For making regulations as to pits, precipices and deep waters, and other places dangerous to travellers;

Granting right to take tolls.

5. For granting to any person, in consideration or part consideration of planking, gravelling or macadamizing a road, or of building a bridge, the tolls fixed by by-law to be levied

on the work for a period of not more than twenty-one years after the work has been completed, and after such completion has been declared by a by-law of the council authorizing tolls to be collected; and the grantee of the tolls shall, during the period of his right thereto, maintain the road or bridge in repair;

Timber, Stone, etc, on Road allowances.

6. For preserving or selling timber, trees, stone, sand or gravel, on any allowance or appropriation for a public road; but this shall be subject to the provisions of *The Act respecting Timber on Public Lands* relative to Government road allowances and the granting of Crown timber licenses; For preservation of trees, stone, etc. Rev. Stat. c. 28.

Granting Privileges to Roads or Bridge Companies.

7. For regulating the manner of granting to road or bridge companies permission to commence or proceed with roads or bridges within its jurisdiction, and for regulating the manner of ascertaining and declaring the completion of the work, so as to entitle such companies to levy tolls thereon, and for regulating the manner of making the examinations necessary for the proper exercise of these powers by the council; 46 V. c. 18, s. 550 (1-7). See Cap. 159. Granting privileges to road or bridge companies.

Procuring Materials for Constructing or Repairing.

8. For searching for and taking such timber, gravel, stone, or other material or materials (within the municipality) as may be necessary for keeping in repair any road or highway within the municipality; and, for the purpose aforesaid, with the consent of the council of an adjoining municipality (by resolution expressed), for searching for and taking gravel within the limits of such adjoining municipality; and the right of entry upon such lands, as well as the price or damage to be paid to any person for such timber or materials, shall, if not agreed upon by the parties concerned, be settled by arbitration under the provisions of this Act; Power to take materials for roads.

- (a) But no such gravel shall be taken or removed from the premises of any person in an adjoining municipality until the price or damage has been agreed upon between the parties, or settled by arbitration. 48 V. c. 39, s. 23.

Selling Road Allowances.

9. For selling the original road allowance, to the parties next adjoining whose lands the same is situated, when a public road has been opened in lieu of the original road allowance, and for the site or line of which compensation has been paid, and for selling, in like manner, to the owners of any adjoining When the council may stop up or sell a road allowance.

land, any road legally stopped up or altered by the council; and in case such parties respectively refuse to become the purchasers at such price as the council thinks reasonable, then for the sale thereof to any other person for the same or a greater price. 46 V. c. 18, s. 550 (9).

When a road is substituted for an original allowance without compensation to person whose land is taken, such person if he owns land adjoining to be entitled to original road.

551.—(1) In case any one in possession of a concession road or side line has laid out and opened a road or street in place thereof without receiving compensation therefor, or in case a new or travelled public road has been laid out and opened in lieu of an original allowance for road, and for which no compensation has been paid to the owner of the land appropriated as a public road in place of such original allowance, the owner, if his lands adjoin the concession road, side line, or original allowance, shall be entitled thereto, in lieu of the road so laid out, and the council of the municipality, upon the report in writing of its surveyor, or of a deputy provincial land surveyor, that such new or travelled road is sufficient for the purposes of a public highway, may convey the said original allowance for road, in fee simple, to the person or persons upon whose land the new road runs.

Compensation to party whose land is taken who does not own land adjoining original road.

(2) When such original road allowance is, in the opinion of the council, useless to the public, and lies between lands owned by different parties, the municipal council may, subject to the conditions aforesaid, sell and convey a part thereof to each of such parties, as may seem just and reasonable; and in case compensation was not paid for the new road, and the person through whose land the same passes does not own the land adjoining the original road allowance, the amount received from the purchaser of the corresponding part of the road allowance when sold shall be paid to the person who at the time of the sale owns the land through which the new road passes. 46 V. c. 18, s. 551.

Possession of Unopened Road Allowances.

Original allowances for roads when to be deemed legally possessed till a by-law is passed for opening them.

552. In case a person is in possession of any part of a government allowance for road, laid out adjoining his lot and enclosed by a lawful fence, and which has not been opened for public use by reason of another road being used in lieu thereof, or is in possession of any government allowance for road parallel or near to which a road has been established by law in lieu thereof, such person shall be deemed legally possessed thereof, as against any private person, until a by-law for opening such allowance for road has been passed by the council having jurisdiction over the same. 46 V. c. 18, s. 552.

Notice of By-laws for Opening such Allowances.

Notice of by-law to be given.

553. No such by-law shall be passed until notice in writing has been given to the person in possession, at least eight days before the meeting of the council, that an application will be made for opening such allowance. 46 V. c. 18, s. 553.

Aiding in making Roads and Bridges.

554. The council of any municipality may pass by-laws for granting aid to any adjoining municipality in making, opening, maintaining, widening, raising, lowering, or otherwise improving any highway, road, street, bridge, or communication passing from or through an adjoining municipality. 46 V. c. 18, s. 554.

By-laws to aid adjoining municipality to open roads, etc.

DIVISION III.—POWERS OF TOWNSHIPS, CITIES, TOWNS, AND VILLAGES IN RELATION TO ROADS AND BRIDGES.

Aiding Counties in opening New Roads. Sec. 555 (1).

Joint works with other Municipalities. Sec. 555 (2).

Repair of Township Roads, how enforced. Secs. 556-564.

555. The council of every township, city, town and incorporated village may pass by-laws—

By-laws may be made for—

New Roads.

1. For granting to the county or united counties in which such municipality lies, aid, by loan or otherwise, towards opening or making any new road or bridge on the bounds of such municipality;

Aiding counties in making roads and bridges.

Joint Works with other Municipalities.

2. For entering into and performing any arrangement with any other council in the same county or united counties for executing, at their joint expense and for their joint benefit, any work within the jurisdiction of the council. 46 V. c. 18, s. 555.

Joint works with other municipalities.

Repair of Township Roads—how enforced.

556. Whenever township councils fail to maintain township boundary lines not assumed by the county council, in the same way as other township roads, by mutual agreement as to the share to be borne by each, it shall be competent for one or more of such councils to apply to the county council to enforce joint action on all township councils interested. 46 V. c. 18, s. 556.

Township council failing to perform their duty.

557. In cases where all the township councils interested neglect or refuse to open up and repair such lines of road in a manner similar to the other local roads, it shall be competent for a majority of the ratepayers resident on the lots bordering on either or both sides of such line, to petition the county council to enforce the opening up or repair of such lines of road by the township councils interested. 46 V. c. 18, s. 557

Resident rate-payers may petition county council to enforce opening up of road.

Action by
county council
on petition.

558. A county council receiving such petition, either from township councils or from ratepayers, as in the preceding section mentioned, may consider and act upon the same at the session at which the petition is presented. 46 V. c. 18, s. 558.

Amount, etc.,
to be furnished
by each town-
ship.

559. The county council may determine upon the amount which each township council interested shall be required to apply for the opening or repairing of such lines of road, or to direct the expenditure of a certain portion of the statute labour, or both, as may seem necessary to make the said lines of road equal to other roads. 46 V. c. 18, s. 559.

Commissioners
to enforce
order of coun-
ty council as
to such roads.

560. It shall be the duty of the county council to appoint a commissioner or commissioners to execute and enforce their orders or by-laws relative to such roads. If the representatives of any or all of the townships interested intimate to the council or to the commissioner or commissioners so appointed, their intention to execute the work themselves, then the commissioner or commissioners shall delay proceedings for a reasonable time; but if the work is not proceeded with during the favourable season by the township officers, then the commissioners shall undertake and finish it themselves. 46 V. c. 18, s. 560.

Proviso.

Sums deter-
mined upon to
be paid by
townships.

561. Any sum of money so determined upon by the county council as the portion to be paid by the respective townships, shall be paid by the county treasurer, on the order of the commissioner or commissioners, and the amount retained out of any money in his hands belonging to such township; but if there are not, at any time before the striking of a county rate, any such moneys belonging to such township in the treasurer's hands, an additional rate shall be levied by the county council against such township sufficient to cover such advances. 46 V. c. 18, s. 561.

When the
several town-
ships interest-
ed cannot
agree.

Wardens to be
arbitrators.

County judge
also.

562. Whenever the several townships interested in the whole or part of any county boundary line road are unable mutually to agree as to their joint action in opening or maintaining such line road, or portion thereof, one or more of such township councils may apply to the wardens of the bordering counties to determine jointly the amount which each township shall be required to expend, either in money or statute labour, or both, and the mode of expenditure, on such road; the County Judge of the county in which the township first making the application is situate, shall in all cases be the third arbitrator. 46 V. c. 18, s. 562.

Meetings of
wardens.

563. It shall be the duty of the wardens of the counties interested to meet within twenty-one days from the time of receiving such application for the determination of the matter

in dispute. The warden of the county in which the township first making the application is situated, shall be the convener of the meeting; and it shall be his duty to notify the warden of the other county and County Judge of the time and place of meeting, within eight days of the time of his receiving such application. 46 V. c. 18, s. 563. Who to convene, etc.

564. At such meeting the wardens and County Judge, or any two of them, shall determine on the share to be borne by the respective townships, of the amount required on the part or parts to be opened or repaired by each or both, and shall appoint a commissioner or commissioners to superintend such work, and it shall be the duty of the township treasurer to pay the orders of the commissioners to the extent of the sum apportioned to each; and pathmasters controlling the statute labour on the lots adjoining such line, on the portion of such line to be opened or repaired, shall obey the orders of the commissioner or commissioners in performing the statute labour unexpended. 46 V. c. 18, s. 564. What the wardens and county judge shall determine, etc.

DIVISION IV.—POWERS OF COUNTY AND TOWNSHIP COUNCILS
IN RELATION TO ROADS.

Sale or Lease of Minerals on or under Roads.

565.—(1) The corporation of any township or county, wherever minerals are found, may sell or lease, by public auction or otherwise, the right to take minerals found upon, or under any roads over which the township or county may have jurisdiction, if considered expedient so to do. Sale or lease of mineral rights under roads.

(2) No such sale or lease shall take place until after due notice of the intended by-law has been posted up in six of the most public places in the immediate neighbourhood of such road, for at least one month previous to the time fixed for considering the by-law. No sale or lease till after notice.

(3) The deed of conveyance or lease to the purchaser or lessee under the by-law, shall contain a proviso protecting the road for public travel, and preventing any uses of the granted rights interfering with public travel. 46 V. c. 18, s. 567. Sale or lease not to interfere with public travel.

DIVISION V.—POWERS OF COUNTY COUNCILS IN RELATION
TO ROADS AND BRIDGES.

- Respecting the closing of Road Allowances. Sec. 566 (1).*
 “ *The opening and altering of Roads. Sec. 566 (2).*
 “ *Trees obstructing highways. Sec. 566 (3).*
 “ *Double tracks in Snow Roads. Sec. 566 (4).*
 “ *Aid to Townships. Sec. 566 (5).*
 “ *Repair of County roads in local Municipalities. Sec. 566 (6, 7).*

By-laws for— **566.** The council of every county shall have power to pass by-laws for the following purposes:

Closing Road Allowances.

Disposing of
original allow-
ance for roads
in certain
cases.

1. For stopping up, or stopping up and sale, of any original allowance for roads or parts thereof within the county, which is subject to the sole jurisdiction and control of the council, and not being within the limits of any village, town or city within or adjoining the county; but the by-law for this purpose shall be subject to section 546 of this Act;

Opening and Altering Roads.

Opening, etc.,
roads, etc.,
within or be-
tween several
municipalities

2. For opening, making, preserving, improving, repairing widening, altering, diverting and stopping up roads, streets, squares, alleys, lanes, bridges or other public communications, running or being within one or more townships, or between two or more townships of the county; or any bridge required to be built or made across any river over 100 feet in width within any incorporated village in the county connecting any public highway leading through the county, and which is in continuation of a county road, or between the county and any adjoining county or city or separated town, or on the bounds of any town or incorporated village, within the boundaries of the county, as the interests of the inhabitants of the county, in the opinion of the council, require to be so opened, made, preserved and improved; and for entering upon, breaking up, taking or using any land in any way necessary or convenient for the said purposes, subject to the restrictions herein contained; 46 V. c. 18, s. 565 (1, 2).

Trees obstructing Highways.

May direct the
trees to be
cleared on each
side of high-
ways.

3. For directing that, on each and either side of a highway, under the jurisdiction of the council, passing through a wood, the trees (unless such as are reserved by the owner for ornament or shelter) shall, for a space not exceeding twenty-five feet

on each side of the highway, be cut down and removed by the proprietor, within a time appointed by the by-law, or, in his default, by the county surveyor or other officer in whose division the land lies; and, in the latter case, for authorizing the trees to be used by the overseer or other officer for any purpose connected with the improvement of the highways and bridges in his division, or to be sold by him to defray the expenses of carrying the by-law into effect; and the council may further pay such expenses out of county funds;

Double Tracks in Snow Roads.

4. For providing for the making and keeping open of double tracks in snow roads, according to the provisions of *The Act respecting Double Tracks in Snow Roads*; Double tracks in snow roads. Rev. Stat. c. 197.

Aiding Townships, etc.

5. For granting to any town, township or incorporated village in the county, aid, by loan or otherwise, towards opening or making any new road or bridge in the town, township or village, in cases where the council deems the county at large sufficiently interested in the work to justify such assistance, but not sufficiently interested to justify the council in at once assuming the same as a county work, and also for guaranteeing the debentures of any municipality within the county, as the council may deem expedient; For aiding the making of roads and bridges. Guaranteeing debentures of local municipalities.

Repair of County Roads in local Municipalities.

6. For requiring that the whole or any part of a county road within any local municipality shall be opened, improved and maintained by such local municipality; 46 V. c. 18, s. 565 (3-6.) Opening roads in local municipalities.

7. For abandoning or otherwise disposing of the whole or any portion of a toll road owned by a county, whether situated wholly within the county or partly within the county and partly within an adjoining county or counties, and on the passing of such by-law the clerk shall forthwith forward a certified copy thereof to the local municipality or municipalities through or along which any portion of said abandoned road shall run or border upon: Provided, however, that no such by-law shall take effect until assented to by the local municipality or municipalities affected, or until the same shall have been approved by the Lieutenant-Governor in Council. 48 V. c. 39, s. 24; 49 V. c. 37, s. 18. Disposing of roads.

DIVISION VI.—POWERS OF TOWNSHIP COUNCILS IN RELATION
TO ROADS AND BRIDGES.

Aiding Counties. Sec. 567 (1).

Closing Road Allowances. Sec. 567 (2).

Trees obstructing Highways. Sec. 567 (3).

Footpaths. Sec. 567 (4).

Sale of Roads in Villages and Hamlets. Sec. 568.

By-laws for— **567.** The council of every township may pass by-laws—

Aiding Counties.

Aiding adjoining county in making roads, etc., and granting aid to county for roads assumed by county.

1. For granting to any adjoining county, aid in making, opening, maintaining, widening, raising, lowering or otherwise improving any highway, road, street, bridge or communication lying between the township and any other municipality, and for granting like aid, to the county in which the township lies, in respect of any highway, road, street, bridge, or communication, within the township, assumed by the county as a county work, or agreed to be so assumed on condition of such grant;

Closing Road Allowances.

Stopping up, leasing or sale of original road allowance.

2. For the stopping up, leasing or sale of any original allowance for road, or any part thereof, within the municipality, and for fixing and declaring therein, the terms upon which the same is to be leased, sold and conveyed;

Proviso.

But no such by-law shall have any force—

(a) Unless passed in accordance with section 546 of this Act, nor

(b) Until confirmed by a by-law of the council of the county in which the township is situate, at an ordinary session of the county council, held not sooner than three months nor later than one year next after the passing thereof;

Trees obstructing Highways.

Ordering trees to be cut down on each side of a road.

3. For directing that, on each or either side of a highway, under the jurisdiction of the council, passing through a wood, the trees (unless such as are reserved by the owner for ornament or shelter) shall, for a space not exceeding twenty-five feet on each side of the highway, be cut down and removed by the proprietor within a time appointed by the by-law, or, on his default, by the overseer of highways, or other officer in whose

division the land lies; and, in the latter case, for authorizing the trees to be used by the overseer or other officer for any purpose connected with the improvement of the highways and bridges in his division, or to be sold by him to defray the expenses of carrying the by-law into effect; and the council may grant, out of township funds, any money that may be necessary to pay for cutting down and removing such trees;

Footpaths.

4. For setting apart so much of any highway as the council may deem necessary for the purposes of a footpath, and for imposing penalties on persons travelling thereon on horseback or in vehicles. 46 V. c. 18, s. 566. Footpaths.

Sale of Roads in Villages or Hamlets.

568.—(1) In case the trustees of any police village, or fifteen of the inhabitant householders of any other unincorporated village or hamlet consisting of not less than twenty dwelling houses standing within an area of 200 acres, petition the council of the township in which the village or hamlet is situate, and in case the petition of such unincorporated village or hamlet, not being a police village, is accompanied by a certificate from the registrar of the registry division within which the township lies, that a plan of the village or hamlet has been duly deposited in his office according to the registry laws, the council may pass a by-law to stop up, sell and convey, or otherwise deal with any original allowance for road lying within the limits of the village or hamlet, as the same shall be laid down on the plan, but subject to all the restrictions contained in this Act with reference to the sale of original allowances. When roads in police villages and certain hamlets may be stopped up, sold, etc., by township council.

(2) The preceding sub-section shall apply to a village or hamlet situate in two townships, whether such townships are in the same or different counties, and in such case the council of each of the townships shall have the power thereby conferred, as to any original allowance for road lying within that part of the village or hamlet which, according to the registered plan, is situate within such township. 46 V. c. 18, ss. 568, 569 When village is partly in each of two townships.

**TITLE III.—POWERS OF MUNICIPAL COUNCILS AS
TO DRAINAGE AND OTHER IMPROVEMENTS
PAID FOR BY LOCAL RATE.**

DIV. I.—TOWNSHIPS, CITIES, TOWNS AND VILLAGES.

DIV. II.—TOWNSHIPS AND VILLAGES.

DIV. III.—COUNTIES.

**DIVISION I.—LOCAL IMPROVEMENTS IN TOWNSHIPS, CITIES
TOWNS AND VILLAGES.**

Local drainage by-laws, and fund for. Secs. 569, 570.
Complaints respecting assessments, how tried. Sec. 569(10-15).
Quashing by-laws, limitations respecting. Secs. 571-574.
Extension of works to other Municipalities. Sec. 575.
Mode of apportioning cost. Secs. 576-582.
Who to keep in repair. Secs. 583-590.
Damage done by works. Secs. 591, 592.
Drainage by private persons. Sec. 593.
Earth, etc., may be spread on road. Sec. 594.
Part of cost payable by Municipality. Sec. 595.
Construction of ditch on town line between two Municipalities. Secs. 596, 597.
Construction of works affecting several Municipalities in same County. Secs. 598, 599.
Construction of works affecting several Municipalities in different Counties—Procedure. Secs. 600-611.
Cost of local improvements. Secs. 612-628.
Sweeping, watering and lighting streets. Sec. 629.

Drainage Works.

Municipal
councils may
pass by-laws
for deepening
streams, etc.,
drainage, etc.

Examination
by engineer.

Plans and
estimates.

569. In case the majority in number of the persons, as shewn by the last revised assessment roll, to be the owners (whether resident or non-resident) of the property to be benefited in any part of any township, city, town or incorporated village, petition the council for the deepening or straightening of any stream, creek, or water-course, or for draining of the property (describing it), or for the removal of any obstruction which prevents the free flow of the waters of any stream, creek or water-course, as aforesaid, or for the lowering of the waters of any lake or pond, for the purpose of reclaiming flooded land or more easily draining any lands, the council may procure an engineer or provincial land surveyor to make an examination of the stream, creek or water-course proposed to be deepened or straightened, or from which it is proposed to remove obstructions, or of the lake or pond, the waters of which it is proposed to lower, or of the locality proposed to be drained, and may procure plans and estimates to be made of the work by such engineer or surveyor, and an assessment to be made by such

engineer or surveyor of the real property to be benefited by such work, stating as nearly as may be, in the opinion of such engineer or surveyor, the proportion of benefit to be derived therefrom by every road and lot, or portion of lot; and if the council is of opinion that the proposed work, or a portion thereof, would be desirable, the council may pass by-laws:

1. For providing for the proposed work, or a portion thereof of being done, as the case may be. 46 V. c. 18, s. 570 (1). For deepening streams, etc.

2. For borrowing, on the credit of the municipality, the funds necessary for the work, although the same extends beyond the limits of the municipality (subject in that case to be reimbursed as hereinafter mentioned), and for issuing the debentures of the municipality to the requisite amount, including the costs of arbitration, if any, in sums of not less than \$100 each, and payable within twenty years from date, with interest at a rate of not less than four per centum per annum; For borrowing requisite funds, etc.

(a) Any council issuing debentures under the provisions of this section, may include the interest on the debentures in the amount payable, in lieu of the interest being payable annually in respect of each debenture, and any by-law authorizing the issue of debentures for a certain amount and interest, shall be taken to authorize the issue of debentures, in accordance with this sub-section, to the same amount with interest added, if the council, by subsequent resolution, direct the treasurer to issue debentures in accordance with this section, as aforesaid; 46 V. c. 18, s. 570 (2); 49 V. c. 37, s. 20; 50 V. c. 6, s. 1. Payment of interest on debentures how made.

3. For assessing and levying in the same manner as taxes are levied, upon the real property to be benefited by the work, a special rate sufficient for the payment of the principal and interest of the debentures, and for so assessing and levying the same as other taxes are levied, by an assessment and rate on the real property so benefited (including roads held by joint stock companies or private individuals), in proportion, as nearly as may be, to the benefit derived by each lot or portion of lot and road in the locality; Levying rate or payment.

(a) The cost of any arbitration held in connection with the construction of any works under this section, the cost of the publication of by-laws, and all other expenses incidental to the construction of the works and the passing of the by-laws shall be deemed part of the cost of such works, and included in the amount to be raised by local rate; What cost to be deemed cost of works.

(b) Any person whose property has been assessed for such work may pay the amount of such assessment, less the interest, at any time before the debentures are issued, in which case the amount of debentures shall be proportionably reduced; and Proviso.

Proviso.

(c) Any agreement on the part of any tenant to pay the rates or taxes of the demised property shall not apply to or include the charges or assessments for any works under this section, unless such agreement in express terms mentions or refers to such charges or assessments, and as payable in respect of drainage works; but in cases of contracts of purchase or of leases giving the lessee a right of purchase, the said charges or assessments shall be added to the price, and shall be paid (as the case may be) by the purchaser, or by the lessee in case he exercises such right of purchase;

For providing how assessment be paid.

4. For regulating the times and manner in which the assessment shall be paid;

For ascertaining the property liable to the rate.

5. For determining what real property will be benefited by the works, and the proportion in which the assessment should be made on the various portions of lands so benefited, and subject in every case of complaint by the owner or person interested in any property assessed, (whether of overcharge, or undercharge of any other property assessed, or that property which should be assessed has been wrongfully omitted to be assessed,) to proceedings for trial of such complaint and appeal therefrom, in like manner, as nearly as may be, as on proceedings for the trial of complaints to the Court of Revision under *The Assessment Act*;

Rev. Stat. c. 193, ss. 64, 65.

Mode of assessing property.

6. The engineer or surveyor in assessing the real property to be benefited by any works to be executed under this section, need not confine his assessment to the part of a lot actually drained, but, in order that the portion to be rated may be conveniently ascertained, may make such assessment on the whole lot, or on the half, quarter, or other described part of the lot, if the person owning the part actually drained owns the whole lot, or owns such half, quarter, or other described part of the lot;

How proportion of benefit may be shewn.

7. The proportion of benefit to be derived from any works, by different parcels of land or roads may be shewn by the engineer or surveyor by placing sums of money opposite such parcels and roads, and it shall not be deemed to have been necessary to state the fraction of the cost to be borne by each parcel or road;

Petition for draining lands by embanking etc.

8. The council shall have the like power, and the provisions of this section shall apply in cases where the work can be effectually accomplished only by embanking, pumping or other mechanical operations, but in such cases the council shall not proceed except upon the petition of two-thirds of the owners above mentioned in this section; 46 V. c. 18, s. 570 (2, part, 3-8).

Injury to low lying land.

9. In cases provided for in the next preceding sub-section, the council may pass by-laws for assessing and defraying the

annual cost of maintaining the necessary works upon the lands and roads to be benefited thereby, according to the provisions of this Act; and may do all things necessary, and pass all requisite and proper by-laws, and enter into all proper contracts for maintaining and giving full effect to said works; and all the provisions of this and the following sections to section 632 inclusive, shall be applicable, so far as possible to the draining of lands under sub-section 8 of this section; except that the council of the municipality may, on the petition of two-thirds of the owners appearing by the last revised assessment roll to be assessed for work mentioned in said sub-section, pass a by-law relieving the municipality from all liability under the provisions of section 586; and after such last mentioned by-law shall have been passed, the provisions of said section 586 shall not apply to any of the works mentioned in said sub-section and set forth and designated in said last mentioned by-law; 46 V. c. 18, s. 570 (9); 49 V. c. 37, s. 21.

Section 597,
only to apply
during the
will of the
Council.

10. Trial of such complaints shall be had in the first instance by and before the Court of Revision of the municipality in which the lands or roads lie, which Court the council shall, from time to time as the occasion may require, hold on some day not earlier than twenty nor later than thirty days from the day on which the by-law was first published, notice of which shall be published with the by-law during the first three weeks of its publication; and all notices of appeal shall be served upon the clerk of the municipality at least eight days prior to such Court of Revision; but the Court of Revision may though such notice be not given permit the appeal to be heard on such conditions as to giving notice to all persons interested and otherwise as may seem just; 46 V. c. 18, s. 570 (10); 50 V. c. 29, s. 38.

Court of
Revision to
have primary
jurisdiction.

11. Such Court shall be constituted in the same manner and have the same power as Courts of Revision under *The Assessment Act*;

Power of.
Rev. Stat. c.
193, ss. 55-63.

12. In case of any such complaint, the clerk with whom the roll is deposited shall transmit to the Court of Revision a certified copy of so much of the said roll as relates to such municipality;

Transmission
of assessment
roll.

13. The appeal from the Court of Revision shall be to the Judge, or junior or acting Judge, of the County Court of the county within which such municipality is situate;

Appeal to
county judge.

14. In case of appeal to the Judge, junior or acting Judge of the County Court, he shall have the same powers and duties and the clerk of the municipality shall have the same powers and duties, as nearly as may be, as they have respectively upon appeals from the Court of Revision under *The Assessment Act*;

Powers of
judge on ap-
peal.

Rev. Stat. c.
193, ss. 68-74.

Variations in assessment on complaint or appeal.

15. In case, on any such complaint or appeal, the assessment is varied in respect of the property which is the subject of the complaint or appeal, the Court or Judge, as the case may be, shall vary *pro rata* the assessment of the said property, and of the other lands and roads benefited as aforesaid, without further notice to the persons interested therein, so that the aggregate amount assessed shall be the same as if there had been no appeal; and the Judge, or in case there is no appeal to the Judge, the Court of Revision, shall return the roll to the municipal clerk from whom it was received, and the assessors shall prepare and attest a roll in accordance with their original assessment as altered by such revision;

Works to which this section applies.

16. The provisions of this section shall be deemed to extend to the re-execution or completion of any works which have been executed or have been partly or insufficiently executed under any provision of any Act of this Legislature, or of the Parliament of the Province of Canada, and to any works which it may be deemed expedient to dig, construct, or make for the purposes aforesaid, or any of them, provided that the stream, lake, or pond is, for the purposes hereof, within the jurisdiction of this Legislature; 46 V. c. 18, s. 570 (11-16).

Appointment of commissioners to carry out drainage works.

17. In order the better to maintain and operate works constructed under the provisions of sub-section 8 of this section, the council may pass by-laws appointing one or more commissioners from among those whose lands are assessed for the construction of such works, and the commissioners so appointed shall have full power to enter into all such necessary and proper contracts for the purchase of fuel, repairs of buildings and machinery, and may do all other things necessary to facilitate the successful operation of such works as may be set forth in the by-law appointing such commissioners; 48 V. c. 39, s. 25.

Provision where obstruction is situate outside of municipality.

18. Where any obstruction within the meaning of the provisions of this section, is wholly situate or existing beyond the limits of the municipality, the same shall for all purposes, and with respect to every provision of this Act, be deemed and taken to be an obstruction, situate and existing partly within and partly without the limits of the municipality, and as if the proposed work or operations in connection therewith, or with the removal thereof, were to be done and performed in part within the limits of the municipality, and in part to be continued and extended beyond such limits, and all the provisions of this Act, shall be held and deemed to apply and operate accordingly;

Removal of artificial structures.

19. Where such obstruction is occasioned by or is a dam or other artificial structure, the council shall be deemed to have full power to acquire, with the consent of the owner thereof, and upon payment of such purchase money as may be mutually agreed upon, the right and title to remove the same, wholly or

in part; and any amount so paid or payable as purchase money, shall be deemed part of the cost of the works under this section in connection with the removal of such obstruction, and shall be dealt with and provided for accordingly;

20. The two preceding sub-sections are to be taken as applying only to cases where the obstruction is actually situate or existing in a municipality next adjoining to the municipality mentioned in such sub-sections; 49 V. c. 37, s. 22. Application of sub-ss. 18 and 19.

21. To remove doubts it is hereby declared and enacted that where the obstruction referred to in this section is occasioned by, or is a dam or other artificial structure, and is situate wholly within the municipality, the council shall be deemed to have full power to acquire, with the consent of the owner thereof, and upon payment of such purchase money as may be mutually agreed upon, the right to remove the same, wholly or in part; and any amount so paid or payable as purchase money, shall be deemed part of the costs of the works under this section in connection with the removal of such obstruction, and shall be dealt with and provided for accordingly, and where the lands benefited are situated partly in the said municipality and partly in the next adjoining municipality, the special rate sufficient for the payment of the principal and interest of the debentures and the assessment and levying of the same shall be made, levied and paid over by the said municipality, and the said next adjoining municipality, in such proportions as the said engineer or surveyor may determine and charge upon the lands aforesaid, and in like manner and to the same extent, as nearly as may be, as is provided for by this Act where the lands benefited are situated wholly within the municipality. 50 V. c. 29, s. 54. Removal of obstructions in rivers.

570.—(1) The by-law shall, *mutatis mutandis*, be in the form or to the effect following: Form of by-law.

A BY-LAW to provide for draining parts of (or, for the deepening of in, or as the case may be) the Township of , and for borrowing, on the credit of the Municipality, the sum of for completing the same.

Provisionally adopted the day of , A. D.

Whereas a majority in number of the owners, as shewn by the last revised assessment roll, of the property hereinafter set forth to be benefited by the drainage (or deepening, or as the case may be), have petitioned the Council of the said Township of , praying that (here set out the purport of the petition, describing generally the property to be benefited.)

And whereas, thereupon the said Council procured an examination to be made by , being a person competent for such purpose, of the said locality proposed to be drained (or the said stream, creek, or water-course proposed to be deepened, or as the case may be), and has also procured plans and estimates of the work to be made by the said and an assessment to be made by him of the real property to be benefited by such drainage (or deepening, or as the case may be), stating, as nearly as he can, the proportion of benefit which, in his opinion, will be derived in

consequence of such drainage (or deepening, or as the case may be), by every road and lot, or portion of lot, the said assessment so made, being the assessment hereinafter by this by-law enacted to be assessed and levied upon the lots and parts of lots hereinafter in that behalf specially set forth and described, and the report of the said in respect thereof, and of the said drainage (or deepening, or as the case may be), being as follows : (here set out the report of the Engineer or Surveyor employed.)

And whereas, the said Council are of opinion that the drainage of the locality described (or the deepening of such stream, creek or water-course, or as the case may be) is desirable :

Be it therefore enacted by the said Municipal Council of the said Township of , pursuant to the provisions of *The Municipal Act*.

1st. That the said report, plans and estimates be adopted, and the said drain (or deepening, or as the case may be) and the works connected therewith be made and constructed in accordance therewith.

2nd. That the Reeve of the said Township may borrow on the credit of the Corporation of the said Township of the sum of , being the funds necessary for the work, and may issue debentures of the Corporation to that amount, in sums of not less than \$100 each, and payable within years from the date thereof, with interest at the rate of per centum per annum, that is to say, in (insert the manner of payment, whether in annual payments or otherwise), such debentures to be payable at , and to have attached to them coupons for the payment of interest.

3rd. That for the purpose of paying the sum of \$475, being the amount charged against the said lands so to be benefited as aforesaid, other than lands (or roads, or lands and roads) belonging to the Municipality, and to cover interest thereon for (ten) years, at the rate of (five) per cent. per annum, the following special rates, over and above all other rates, shall be assessed and levied (in the same manner and at the same time as taxes are levied) upon the undermentioned lots and parts of lots ; and the amount of the said special rates and interest assessed as aforesaid against each lot or part of lot respectively shall be divided into equal parts, and one such part shall be assessed and levied as aforesaid, in each year, for years after the final passing of this by-law, during which the said debentures have to run.

Conces- on.	Lot or Part of Lot.	Acres.	Value of Improve- ment.	To cover Interest for (10 years at (5) per cent.	Total Special Rate.	Annual Assess- ment dur- ing each year for (10) years.
			\$ cts.			
10	5	200	75 00			
"	S. $\frac{1}{2}$ 6	100	50 00			
"	N. $\frac{1}{2}$ 6	50	30 00			
"	S. W. $\frac{1}{2}$ 8	100	80 00			
"	9	200	150 00			
"	S. $\frac{1}{2}$ and N. $\frac{1}{2}$ 10	150	90 00			
			475 00			
Chargeable to Municipality for roads (or lands, or roads and lands)			120 00			
			595 00			

4th. For the purpose of paying the sum of \$120, being the total amount assessed as aforesaid against the said roads (or lands, or roads and lands) of the said Municipality, and to cover interest thereon for (ten) years at the rate of (five) per cent. per annum, a special rate of in the dollar shall, over and above all other rates, be levied (in the same manner and at the same time as taxes are levied) upon the whole ratable property in the said Township of in each year for the period of years, after the date of the final passing of this by-law, during which the said debentures have to run.

(2) In the event of the assessment being altered by the Court of Revision or Judge, the by-law shall, before being finally passed, be amended so as to correspond with such alteration by the Court of Revision or Judge (as the case may be). 46 V. c. 18, s. 571 ; 49 V. c. 37, s. 24, Amendment of by-law.

(3) In case the council shall finally pass the by-law before the time for appealing to the Judge has expired, or while an appeal is pending before him, the Judge shall, notwithstanding such by-law has been passed, proceed and determine the appeal; and if he varies the assessment, the council shall by an amending by-law alter the by-law in accordance with the variation in the assessment made by the Judge. 49 V. c. 37, s. 23. Provision where by-law passed before appeal determined.

571.—(1) Before the final passing of the by-law it shall be published, once, or oftener, in every week for four weeks in such newspaper published either within the municipality or in the county town, or in a public newspaper published in an adjoining local municipality, as the council may designate by resolution, together with a notice that any one intending to apply to have the by-law or any part thereof quashed, must, not later than ten days after the final passing thereof, serve a notice in writing upon the reeve or other head officer, and upon the clerk of the municipality, of his intention to make application for that purpose to the High Court, at Toronto, during the six weeks next ensuing the final passing of the by-law. 46 V. c. 18, s. 572 (1); 49 V. c. 37, s. 25. Publication of drainage by-laws.

(2) The council may, at their option, instead of such publication in a newspaper, direct by resolution that a copy of the by-law and notice, written or printed, or partly written and partly printed, be served upon each of the several owners, their lessees or occupants, or upon the agent or agents of such owners, or be left at their places of residence with some grown up member of the family, or where the land is unoccupied and the owner or owners, or their agent or agents, do not reside within the municipality, may cause to be sent by registered letter to the last known address of such owner or owners, a copy of the by-law and notice, and the by-law shall not be finally passed until after the expiration of three weeks from the last of such services, and the clerk shall keep on file in his office a statutory declaration or declarations by the party or parties making the service or services, and the manner in which the same were effected. 46 V. c. 18, s. 572 (2). See sec. 622.

If no application to quash made in time specified, by-law to be valid, notwithstanding defects.

572.—(1) In case no notice of the intention to make application to quash a by-law is served within the time limited for that purpose in the preceding section, or if the notice is served, then, in case the application is not made or is unsuccessful the by-law shall, notwithstanding any want of substance or form, either in the by-law itself or in the time and manner of passing the same, be a valid by-law.

(2) Where the application is made, and is successful in part, so much of the by-law as is not quashed upon the application shall be valid, notwithstanding any want of substance or form aforesaid. 46 V. c. 18, s. 573.

Power to amend by-law when no sufficient means provided for completion of the work.

573.—(1) In case a by-law already passed, or which may be hereafter passed by the council of any municipality, for the construction of drainage works by assessment upon the real property to be benefited thereby, and which has been acted upon by the construction of such works in whole or in part, does not provide sufficient means, or provides more than sufficient means for the completion of the works, or for the redemption of the debentures authorized to be issued thereunder as the same become payable, the said council may, from time to time, amend the by-law in order fully to carry out the intention thereof, and of the petition on which the same was founded, and to refund the surplus (if any) to the then owners of the land *pro rata* according to the original assessment. 46 V. c. 18, s. 574 (1); 49 V. c. 37, s. 26.

Provisions respecting by-laws passed under the preceding sub-section.

(2) Where a by-law which has been heretofore passed, or which may be hereafter passed under the provisions of the preceding sub-section, has been or shall hereafter be published in the manner required by section 571 of this Act, or in case of a city, town or incorporated village, has been or shall be notified in the manner required by section 622, section 572 shall apply to such by-law, and any by-law passed under the said preceding sub-section need not be published unless the council sees fit; and the provisions of *The Municipal Drainage Aid Act* shall apply to any debentures issued under the authority of the said sub-section which have heretofore been or shall hereafter be purchased by direction of the Lieutenant-Governor in Council. 46 V. c. 18, s. 574 (2).

Rev. Stat. c. 37.

When debentures not invalid though not in accordance with by-law.

574. No debenture issued or to be issued under any by-law aforesaid shall be held invalid on account of the same not being expressed in strict accordance with such by-law, provided that the debentures are for sums not in the whole exceeding the amount authorized by the by-law. 46 V. c. 18, s. 575.

When work may be extended beyond limits of municipality.

575. Where it is necessary to continue the works aforesaid beyond the limits of any municipality, the engineer or surveyor employed by the council of such municipality may continue the survey and levels into the adjoining municipality.

until he finds fall enough to carry the water beyond the limits of the municipality in which the work was commenced, and until he obtains a sufficient outlet for the water, and in every such case he may charge the lands and roads to the same extent and in the same manner as is provided by the next succeeding section. 46 V. c. 18, s. 576; 49 V. c. 37, s. 27.

576. Where the works do not extend beyond the limits of the municipality in which they are commenced, but, in the opinion of the engineer or surveyor aforesaid, benefit lands in an adjoining municipality, or greatly improve any road lying within any municipality or between two or more municipalities, then the engineer or surveyor aforesaid shall charge the lands to be so benefited, and the corporation, person or company whose road or roads are improved, with such proportion of the costs of the works as he may deem just; and the amount so charged for roads, or agreed upon by the arbitrators, shall be paid out of the general funds of such municipality or company. 46 V. c. 18, s. 577.

When lands, etc., in adjoining municipality may be charged though works not carried into such municipality.

577. The engineer or surveyor aforesaid shall determine and report to the council by which he was employed, whether the works shall be constructed and maintained solely at the expense of such municipality, or whether they shall be constructed and maintained at the expense of both municipalities, and in what proportion. 46 V. c. 18, s. 578.

Report as to which municipality to bear expense.

578. The engineer or surveyor aforesaid, where necessary shall make plans and specifications of the works to be constructed, and charge the lands to be benefited by the work as provided herein. 46 V. c. 18, s. 579.

Plans, etc.

579. The council of the municipality in which the deepening or drainage is to be commenced, shall serve the head of the council of the municipality into which the same is to be continued, or whose lands or roads are to be benefited without the deepening or drainage being continued, with a copy of the report, plans, specifications, assessment and estimates of the engineer or surveyor aforesaid; and unless the same is appealed from as hereinafter provided it shall be binding on the council of such municipality. 46 V. c. 18, s. 580.

Council of municipality wherein work is to be begun to notify municipality to be benefited.

580. The council of such last mentioned municipality shall, within four months from the delivery to the head of the corporation of the report of the engineer or surveyor, as provided in the next preceding section, pass a by-law or by-laws to raise such sum as may be named in the report, or in case of an appeal, for such sum as may be determined by the arbitrators, in the same manner and with such other provisions as would have been proper if a majority of the owners of the lands to be taxed had petitioned as provided in section 569 of this Act. 46 V. c. 18, s. 581.

Municipality so notified required to raise necessary amounts.

But such
municipality
may appeal.

Proceedings
thereon.

581.—(1) The council of the municipality into which the work is to be continued, or whose lands, road or roads are to be benefited without the work being carried within its limits, may, within twenty days from the day in which the report was served on the head of the municipality, appeal therefrom, in which case they shall serve the head of the corporation from which they received the report, with a written notice of appeal; such notice shall state the ground of appeal, the name of an engineer or other person as their arbitrator, and shall call upon such corporation to appoint an arbitrator in the matter on their behalf, within ten days after the service of such notice.

(2) When it is proposed to continue the deepening or drainage from the municipality in which the same is to be commenced into another municipality, and when through misapprehension or mistake the council served with the report, plans and specifications of the engineer or surveyor, omits to appeal therefrom within twenty days, the Judge of the County Court of the county in which the municipality so served as aforesaid is situated may, upon application at any time before the drainage works have been already commenced or the contract let for the same, or the debentures have been actually issued under the said by-law, after the said twenty days have elapsed, by order, grant permission to appeal, upon such terms and conditions, as to costs and otherwise, as he deems just and reasonable, within a time to be limited by him in the order; or the other council or councils interested may, by resolution waive the lapse of the said time, and in either of such cases the proceedings for appeal shall be the same as would have been required if the appeal had been gone on with in the proper time.

(3) The summons to shew cause why an appeal should not be allowed shall not be returnable in less than seven days from the service thereof, and the council or councils shall have power to amend any by-law or by-laws which may have been passed as shall become necessary or proper, by reason of the appeal or the result thereof. 46 V. c. 18, s. 582 (1-3).

Arbitrators
shall be
appointed, etc.

582. The arbitrators shall be appointed by the parties in manner hereinbefore provided by the sections of this Act with reference to arbitration, and shall proceed as therein directed but in no case shall the engineer or surveyor employed to make surveys, plans and specifications, nor any ratepayer or person interested in the construction of any such works be appointed or act as arbitrator. 46 V. c. 18, s. 583.

Each municipi-
pality to con-
tribute to
maintaining
the work in
proportions
fixed by en-
gineer.

583.—(1) After such work is fully made and completed, it shall be the duty of each municipality, in the proportion determined by the engineer or arbitrators (as the case may be), or until otherwise determined by the engineer or arbitrators, under the same formalities, as nearly as may be, as provided in

the preceding sections, to preserve, maintain and keep in repair the same within its own limits, either at the expense of the municipality, or parties more immediately interested, or at the joint expense of such parties and the municipality, as to the council upon the report of the engineer or surveyor may seem just. 46 V. c. 18, s. 584 (1).

(2) Any such municipality neglecting or refusing so to do, upon reasonable notice in writing being given by any person interested therein, and who is injuriously affected by such neglect or refusal, may be compellable by *mandamus*, to be issued by any Court of competent jurisdiction, to make from time to time the necessary repairs to preserve and maintain the same; and shall be liable to pecuniary damage to any person who, or whose property is injuriously affected by reason of such neglect or refusal. 47 V. c. 32, s. 18. Compelling municipalities to make necessary drainage repairs.

(3) The deepening, extending or widening of a drain in order to enable it to carry off the water it was originally designed to carry off, shall be deemed to be a work of preservation, maintenance, or keeping in repair within the meaning of this section; provided the cost of such extension does not exceed the sum of \$200, and in every case when it exceeds that amount, proceedings shall be taken under the provisions of section 585. 48 V. c. 39, s. 26 (2); 50 V. c. 29, s. 47. Repair and maintenance, what deemed.

584. After any works undertaken under section 598 are fully made and completed, it shall be the duty of each minor municipality to preserve, maintain and keep in repair the same within its own limits, in accordance with the requirements of the preceding section, which shall be applicable thereto. 46 V. c. 18, s. 585. Duty of minor municipalities as to repairing works.

585. In any case wherein the better to maintain any drain constructed under the provisions of this Act, or of *The Ontario Drainage Act* and amendments thereto, or of *The Ontario Drainage Act of 1873*, or of any other Act respecting drainage works and local assessment therefor, or of *The Municipal Drainage Aid Act* or to prevent damage to adjacent lands, it shall be deemed expedient to change the course of such drain, or make a new outlet, or otherwise improve, extend or alter the drain, the council of the municipality, or of any of the municipalities whose duty it is to preserve and maintain the said drain, may, on the report of an engineer appointed by them to examine and report on such drain, undertake and complete the alterations and improvements or extension specified in the report under the provisions of sections 569 to 582 inclusive, without the petition required by section 569. 46 V. c. 18, s. 586; 47 V. c. 32, s. 19; 48 V. c. 39, s. 27; 49 V. c. 37, s. 28; 50 V. c. 29, s. 39. Power to change course of drain, make new outlet, etc. Rev. Stat. caps. 36, 37.

Works not extended beyond municipality commencing same, etc., or which do not benefit any other municipality, to be maintained by municipality commencing same.

When work has been paid for out of funds of municipality repair may be charged on property benefited.

Assessment may be changed.

Repair and maintenance, what deemed.

Repayment advances.

Application of ss. 583, 586 and 589.
Rev. Stat.
Caps. 36, 37.

586.—(1) In any case wherein after such work is fully made and completed, the same has not been continued into any other municipality than that in which the same was commenced, or wherein the lands or roads of any such other municipality are not benefited by such work, it shall be the duty of the municipality making such work to preserve, maintain and keep in repair the same at the expense of the lots, parts of lots and roads, as the case may be, as agreed upon and shewn in the by-law when finally passed.

(2) In any case where similar work has been constructed out of the general funds of the municipality, the council may, without petition, on the report of an engineer or surveyor, pass a by-law for preserving, maintaining and keeping in repair the same at the expense of the lots, parts of lots and roads, as the case may be, benefited by such work, and may assess such lots, parts of lots and roads so benefited, for the expense thereof, in the same manner, by the same proceedings, and subject to the same right of appeal as is provided with regard to works made and completed under the provisions of this Act. 46 V. c. 18, s. 587 (1, 2); 50 V. c. 29, s. 40.

(3) The council may, from time to time, change such assessment on the report of an engineer or surveyor appointed by them to examine and report on such work and repairs, subject to the like rights of appeal as a person charged would have in the case of an original assessment; and the said council shall appoint a Court of Revision to consider such appeals in the manner heretofore provided. 50 V. c. 29, s. 41, *part*.

(4) The deepening, extending, or widening of a drain in order to enable it to carry off the water it was originally designed to carry off, shall be deemed to be a work of preservation, maintenance, or keeping in repair within the meaning of this section; provided the cost of such extension does not exceed the sum of \$200, and in every case where it exceeds that amount, proceedings shall be taken under the provisions of section 585. 48 V. c. 39, s. 26 (2); 50 V. c. 29, s. 47.

(5) In any of the cases referred to in this and the preceding sections, any moneys that have been or may hereafter be advanced by the council of any municipality out of its general funds in anticipation of the levies to be made for the purposes of the said sections, shall be recouped to the municipality so soon as the moneys derived from the assessment shall have been made. 50 V. c. 29, s. 41, *part*.

587. The provisions of sections 583, 586 and 589 of this Act shall extend to drains constructed under the provisions of *The Ontario Drainage Act*, and amendments thereto, or of *The Ontario Drainage Act, 1873*, or of *The Municipal Drainage Aid Act*, the word "assessors" being substituted as to such drains for the word "engineer" in the third line of section 583 48 V. c. 39, s. 26 (1).

588.—(1) In the event of any ditch, drain, creek or water-course that has been constructed or opened up under the provisions of *The Ontario Drainage Act*, or any of the amendments thereto, or under the provisions of any Act respecting drainage to be paid by local rate, becoming obstructed, so that the free flow of the water is impeded thereby, if the aforementioned obstructions have been wilfully or through negligence placed in such ditch, drain, creek, or water-course, by any party or parties through whose land, or between whose lands, such ditch, drain, creek, or water-course is situate, the party or parties causing the same shall, upon notification in writing by the council of the municipality, or an officer appointed by the council for the inspection or care of drains, remove such obstructions, and if not so removed within the time specified, the council shall, without further delay, have the same removed at the cost of the said party or parties. 46 V. c. 18, s. 588 (1); 49 V. c. 37, s. 29, *part*.

Drains to be kept free from obstructions.
Rev. Stat. c. 36.

(2) If such cost is not paid by the party or parties to the person performing the same when the work is completed, the council shall pay the amount to the party performing the work; and the clerk of the municipality shall place such amount upon the collector's roll against the party or parties, as the case may be, with ten per cent. added thereto, and the same shall be collected like other taxes, subject, however, to an appeal by the said party or parties, in respect of the cost of the work, to the Judge of the County Court of the county in which the lands are situate, in the same manner as is provided by section 11 of *The Ditches and Watercourses Act*. 46 V. c. 18, s. 588 (2).

Rev. Stat. c. 220.

(3) Any person or persons who shall wilfully and intentionally obstruct, fill up or injure, any drains constructed under the provisions of any of said Acts, or wilfully or intentionally cut, destroy or injure any embankment or other drainage work connected therewith, shall upon the complaint of the council of the municipality, liable to keep such drain, embankment or work in repair, and upon conviction thereof before a Justice of the Peace, be liable to a fine of not less than \$1 nor more than \$50. 49 V. c. 37, s. 29 *part*.

Penalty for obstructing drain.

589.—(1) Where the repairs, required to be made under either section 583 or section 586, are so extensive that the municipal council does not deem it expedient to levy the cost thereof in one year, the said council may pass a by-law to borrow upon the debentures of the municipality the funds necessary for the work, and shall assess and levy upon the property benefited a special rate sufficient for the payment of the principal and interest of the debentures: the by-law shall not require the assent of the electors.

Power to borrow funds for repairs to drainage works.

(2) The provisions of *The Municipal Drainage Aid Act* shall apply to any debentures issued under the authority of any such by-law, if such by-law, before it was finally passed,

Rev. Stat. c. 37

was published or notified in the manner provided by section 571 of this Act, or, after it was passed, was promulgated in the manner authorized by section 329 of this Act. 46 V. c. 18 s. 589.

Case of drain
used by an-
other muni-
cipality.

590. If a drain already constructed, or hereafter constructed by a municipality, is used as an outlet by another municipality, company or individual, or if any municipality, company or individual by any means causes waters to flow upon and injure the lands of another municipality, company or individual, the municipality, company or individual using such drain as an outlet or otherwise, or causing waters to flow upon and injure such lands, may be assessed in such proportion and amount as may be ascertained by the engineer, surveyor, or arbitrators, under the formalities, except the petition, provided in the foregoing sections, for the construction and maintenance of the drain so used as an outlet as aforesaid; or for the construction and maintenance of such drain or drains as may be necessary for conveying from such lands the waters so caused to flow upon and injure the same. 46 V. c. 18, s. 590; 49 V. c. 37, s. 30.

Disputes as to
damage done
by works to be
referred to
arbitration.

591. If any dispute arises between individuals, or between individuals and a municipality or company, or between a company and municipality, or between municipalities, as to damages alleged to have been done to the property of any municipality, individual or company, in the construction of drainage works, or consequent thereon, then the municipality, company or individual complaining may refer the matter to arbitration, as provided in this Act; and the award so made shall be binding on all parties. 46 V. c. 18, s. 591.

Damages
caused by
drainage to be
charged on
land liable for
cost of
drainage.
Rev. Stat. c.
36.

592. Where, on account of proceedings taken under this Act, or *The Ontario Drainage Act*, or other Acts respecting drainage works and local assessments therefor, damages are recovered against the corporation or parties constructing the drainage works, or other relief is given by any judgment or order of any Court, or any award made under this Act, all such damages, or any sum of money that may be required to enable the corporation to comply with any such judgment, order or award, made in respect thereof, shall be charged *pro rata* upon the lands and roads liable to assessment for such drainage works; provided always, that if to enable the corporation to comply with any such judgment, order or award, it shall be necessary or expedient to change the course of any drain, or to make a new outlet or otherwise improve or alter any drain or drainage works, the same shall for all purposes, and in all respects be dealt with and carried out, and all works and operations in respect thereof shall be executed and performed as if the same were alterations and improvements within the meaning of section 585, and all provisions of this

Act applying to, or in respect of any work, alteration or improvement provided for by the said section, shall apply to any work, alteration or improvement intended to be provided for by this section. 49 V. c. 37, s. 31.

593. In case any person finds it necessary to continue an underdrain into an adjoining lot or lots, or across or along any public highway, for the purpose of an outlet thereto, and in case the owner of such adjoining lot or lots, or the council of the municipality refuses to continue such drain to an outlet, or to join in the cost of the continuation of such drain, then the firstly mentioned person shall be at liberty to continue his said drain to an outlet, through such adjoining lot or lots, or across or along such highway; and in case of any dispute as to the proportion of cost to be borne by the owner of any adjoining lot or municipality the same shall be determined under the provisions of and in the same manner as is provided for the determination of similar disputes by *The Ditches and Water-courses Act*. 48 V. c. 39, s. 28.

Carrying drains into adjoining lots or across highways.

Rev. Stat. c. 220.

594. Where, under the provisions of sections 569 to 632 both inclusive, of this Act, a ditch is being constructed for drainage purposes along a road allowance, contracts may be made, by the municipal council so constructing, for spreading the earth taken from the ditch on the road; and if the road or any part thereof is timbered, or if stumps are in the way, the timber may be removed; and not less than twelve feet of the centre of the road shall be grubbed before the earth is spread upon it. 46 V. c. 18, s. 594.

Power to contract to spread earth, etc., on making ditch for drainage.

595. The removal of the timber, grubbing and spreading of the earth, together with such portion of the cost of the ditch as the engineer or provincial land surveyor may deem just and proper, shall be charged to the municipality and paid out of its general funds. 46 V. c. 18, s. 595.

Payment by municipality.

596. Where it is necessary to construct such a ditch along a town line between two or more municipalities, the municipal council of either of the adjoining municipalities may, on petition, as provided for in section 569 of this Act, cause the ditch to be constructed on either side of the road allowance between the municipalities, and make the road in manner as provided in the last preceding two sections of this Act, and shall charge the lands and roads benefited in the adjoining municipality or municipalities with such proportion of the cost of constructing the said ditch as the engineer or surveyor aforesaid deems just and proper; and the amount so charged for roads, or agreed upon by the arbitrators, shall be paid out of the general funds of such municipality or municipalities. 46 V. c. 18, s. 596.

Construction of ditch on town line between municipalities.

Secs. 569-632
do apply.

597. The provisions of sections 569 to 632, both inclusive, of this Act, shall apply, as far as applicable, to such ditch. 46 V. c. 18, s. 597.

Where more
than one mu-
nicipality in
same County,
affected coun-
ty council may
pass by-law.

598.—(1) Where any works proposed to be constructed in any locality under section 569 affect more than one municipality, either on account of such works passing, or partly passing, through two or more municipalities, or on account of the lowering or raising of the waters of any stream or lake, which is contemplated in the proposed scheme of drainage, either draining or flooding lands in two or more townships, the county council of the county to which such municipalities belong, upon the application of the council of any of the municipalities affected, and without any preliminary petition from the owners of the property to be benefited may pass by-laws for the purposes authorized by the said section. 46 V. c. 18, s. 598 (1).

Sections 569-574, 576, 590 and 591 to apply to work under this section.

(2) Unless where contrary to this Act the provisions of sections 569 to 574, 576, 590 and 591 shall apply to any works constructed under this section; but the Court to be held for the trial of complaints in the first instance shall be composed of three or more persons, nominated by the county council for that purpose, who may or may not be members of the council, as the council may deem expedient, and any three or more of the persons nominated who are present at the sittings of such Court may proceed and adjudicate upon any complaints, notwithstanding the absence of one or more of the members of the Court. The engineer or surveyor who made the assessment shall not be a member of the Court of Revision. 46 V. c. 18, s. 598 (2); 49 V. c. 37, s. 33.

Where court
for trial of
complaints
shall sit.

(3) The sittings of such Court shall be held in the county town, or in such other place or places as the county council or the majority of the said Court may name. All complaints against the assessment shall be lodged with the clerk of the county. 46 V. c. 18, s. 598 (3).

County to
raise necessary
funds, but
townships to
be liable for
same.

599. The county shall raise the money necessary for the construction of the said works, but each township shall be liable to the county for the amount payable in respect of all the lands within such township, and each township shall pass such by-laws as may be requisite for collecting the amount assessed against the lands or roads within its jurisdiction. 46 V. c. 18, s. 599.

Construction
of works in
several coun-
ties.

600.—(1) In case the municipalities upon which the cost of the works would fall are in several counties, any of the counties may procure an examination to be made by an engineer or Provincial land surveyor of the lands affected by the proposed works, and may procure plans of the work, and estimates to be made of the cost thereof, including an estimate of the amount

to be paid for damages, if any, and an assessment to be made by such engineer or Provincial land surveyor of the real property to be benefited, stating, as nearly as may be in the opinion of such engineer or surveyor, the proportion of benefit to be derived from such works by every road and lot or portion of lot.

(2) Any municipality may agree to indemnify the county, in respect of the expenses incurred in the case of the works not being proceeded with. 46 V. c. 18, s. 600.

Municipality may agree to indemnify county.

601. The council shall thereupon, if it considers it desirable to proceed with the work, pass a resolution to this effect, and shall cause a copy of the said report to be published at least once in newspapers published in the county towns of the several counties affected, or in newspapers published in such of the said county towns as have newspapers, but it shall not be necessary that such report shall be published in more than one paper in one county town, and shall cause to be served a copy of the report, plans, specifications, estimates and assessment upon the warden of each of the other counties affected. 46 V. c. 18, s. 601.

If work approved by council report to be published, and copies of plans, etc., served on warden of each county.

602.—(1) In case ten of the owners of the property assessed, within ten days of the first publication of the report in a newspaper published in the county town of the county the council of which procured the examination to be made, petition such council not to proceed with the work, such council shall, if it desires to proceed therewith, pass a by-law for taking the votes of the persons assessed, upon the question whether or not the work shall be proceeded with; such by-law shall provide for holding a polling place in each municipality affected, whether within or without the county passing the by-law; and every person whose lands are assessed, or if the lands of a married woman are assessed, then the husband of such married woman, shall be entitled to vote upon the question: Provided the person proposing to vote is of the full age of twenty-one years, and shall, if required, name the lands in respect of which he claims to be entitled to vote; and shall also, if required take the oath or affirmation following:

When votes of persons assessed to be taken.

You swear that you are of the full age of 21 years, and a natural born (or Form of oath naturalized) subject of Her Majesty.

That you have not voted before in the township on the question now being voted upon.

That you are the owner (or as the case may be) of the lands in respect of which you claim to vote, namely (here mention the lands).

That you are, according to law, entitled to vote on the said question.

That you have not directly or indirectly, received any reward or gift, nor do you expect to receive any, for the vote which you tender.

Proviso.

That you have not received anything, nor has anything been promised to you, directly or indirectly, either to induce you to vote on the said question, or for loss of time, travelling expenses, hire of team, or any other service connected therewith.

That you have not directly or indirectly, paid or promised anything to any person, either to induce him to vote, or to refrain from voting.

So help you God.

Deputy re-
turning officer
and proceed-
ings at poll.

(2) The clerk of each municipality shall act as deputy returning officer at the polling place in such municipality, and the proceedings for taking the poll shall be the same, as nearly as may be, as the proceedings upon voting upon a by-law.

Who to be re-
turning officer.

(3) The clerk of the county council which passed the by-law shall act as returning officer. 46 V. c. 18, s. 602.

Service of
"requisition
of appeal,"
and effect
thereof.

603.—(1) If a vote of the owners has been taken, and they have decided in favour of proceeding with the work, or if such a vote has not been taken, then after the time for presenting a petition as aforesaid has elapsed, in case the council or councils of the county or counties upon which two-thirds of the cost of such work fall, shall have passed a resolution or resolutions to the effect that it is desirable to proceed therewith, the council which caused the survey to be made may serve upon the warden of the other county, or each of the other counties, a notice (hereinafter called a requisition of appeal) requiring such county to state whether or not it is content to accept the assessment made, as shewing the proper proportion to be borne by such county, and notifying such council that if dissatisfied with such assessment they must, within thirty days from the receipt of such notice by their warden, appeal therefrom.

Time within
which notice
of appeal to be
served.

(2) If the council whose warden is served with a requisition of appeal do not, within thirty days of such service, serve the warden of the council from which they received the requisition with a written notice of appeal, they shall be deemed to have accepted the assessment: Provided that the High Court, or a Judge thereof, if it be shewn that the omission to serve the notice of appeal was through mistake, oversight, or misadventure, may upon such terms, as to the Court or Judge seem just, relieve them, and permit them to appoint an arbitrator.

Proviso.

Parties on
whom notice
of appeal to be
served.

(3) In case a council whose warden is served with a requisition of appeal is dissatisfied with the proportion assessed against the county, or with the proportion assessed against any other county, they shall, within thirty days of the receipt of the requisition by their warden, serve the warden of the county from which they received the requisition with a written notice of appeal, and shall also serve each of the other counties affected with a like notice.

(4) The notice shall state the grounds of appeal, and the name of an arbitrator appointed by such council, and shall call upon the council served to appoint an arbitrator on their behalf within ten days after service of such notice. Particulars which notice is to contain.

(5) In default of an appointment, within the said term, the Judge of the County Court of the county in default shall appoint an arbitrator for such county. Appointment of arbitrator by county judge.

(6) Neither the engineer or surveyor who made the assessment, nor any officer or member of any council concerned, shall be appointed an arbitrator. Who may not be arbitrators.

(7) In case, after such council has appointed an arbitrator, there is an even number of arbitrators, such arbitrators shall select an additional arbitrator, or in case of the arbitrators not agreeing in such selection within thirty days after the completion of their number, the Lieutenant-Governor in Council may appoint such additional arbitrator. 46 V. c. 18, s. 603. Provision in case there is an even number of arbitrators.

604. The arbitrators shall, by their award, determine the proportion of the cost of such work that is to be borne by each of the minor municipalities whose lands are affected thereby. 46 V. c. 18, s. 604. Arbitrators to apportion cost of work.

605. In case of a difference between the arbitrators, the decision of the majority shall be conclusive, and the arbitrators shall make their award in so many parts as may be necessary to permit of one thereof being filed with the clerk of each of the counties interested, and one shall be filed with the clerk of each such county accordingly. 46 V. c. 18, s. 605. Decision of majority to be binding.

606. In case a majority of the arbitrators are unable within six months of their appointment, to agree, or in case, prior to the expiration of the said term they, by an instrument in writing, signed by the majority of them, declare their inability to agree upon a complete award, any of the counties interested may apply to a Judge of the High Court to appoint an umpire, and the umpire may make an award upon hearing the points in difference between the arbitrators stated by them, or may, if he deems necessary, re-hear the entire case, or such particular parts thereof as he considers requisite. 46 V. c. 18, s. 606. Application to High Court of Justice when arbitrators unable to agree.

607. Any of the minor municipalities interested may appear, by their head, or by their counsel or agent, before the arbitrators, in support of the assessment, or of any variations which they contend should be made in the proportions in which the minor municipalities are assessed. 46 V. c. 18, s. 607. Right of minor municipalities interested to appear on arbitration.

Where several counties interested, by-laws for assessment not to be passed pending appeal.

608. In case more counties than one are concerned, no by-laws for assessing the cost of the work upon the various parcels and roads shall be passed until it is ascertained that there is not to be an appeal, or until after the award is made, where an appeal is had. 46 V. c. 18, s. 608.

After award made, or after time for appeal expired, each county to pass by-law for raising sum required.

609. Immediately upon an award being made, or, in case there is no appeal, immediately after the time for appealing has elapsed, each county interested shall pass a by-law or by-laws to raise the sum chargeable against such county, and for assessing and levying the same, in accordance with the proportions fixed by the report of the engineer or surveyor, upon the real property within the county to be benefited by the said works, and for the appointment of a court for the trial, in the first instance, of complaints against such assessment, in the same manner and subject to the same conditions as is hereinbefore provided in respect of a county which is solely interested. 46 V. c. 18, s. 609.

Application of ss. 584, 592, 598 (2, 3), and 599.

610. Sections 584, 592 and 599, and sub-sections 2 and 3 of section 598 shall apply to drainage works, in which several counties are interested, as well as to works which only affect one county. 46 V. c. 18, s. 610.

Powers of municipalities to be subject to cap. 199.

611. In case any of the drainage works hereinbefore referred to, are to be carried through, across, under or along the railway of any railway company, in respect of which this Legislature has authority in this behalf, the powers of the municipal councils are, so far as regards the railway, to be exercised, subject as nearly as may be to the terms and restrictions contained in *The Railway Streets and Drains Act*. 46 V. c. 18, s. 611.

Cost of Local Improvements. Secs. 612-628.

Councils may make by-laws for—

612. The council of every township, city, town, and incorporated village may pass by-laws for the following purposes:

Manner of ascertaining real property benefited by local improvements.

1. For providing the means of ascertaining and determining what real property will be immediately benefited by any proposed improvement, the expense of which is proposed to be assessed, as hereinafter mentioned, upon the real property benefited thereby; and of ascertaining and determining the proportions in which the assessment is to be made on the various portions of real estate so benefited; and there shall be the same right of appeal from any such assessment, to the Court of Revision, and from the Court of Revision to the County Judge, as is provided for by section 569 of this Act, and the proceedings thereon shall, except as otherwise provided in section 622 of this Act, be the same respectively as in the case of appeals from ordinary assessments under *The Assessment Act*. 47 V. c. 32, s. 20; 50 V. c. 29, s. 48.

Appeal.

Rev. Stat. c. 193.

- (a) It shall be deemed to have been and to be a sufficient compliance with the provisions of the preceding paragraph of this sub-section, if the council shall have passed or shall pass a general by-law or general by-laws, providing the means of ascertaining and determining what real property will be immediately benefited by any proposed improvement, the expense of which is proposed to be assessed upon the real property immediately benefited thereby, and of ascertaining and determining the proportions in which the assessment is to be made on the various portions of real estate so benefited, and it shall not be deemed to have been, or to be, necessary to pass a special by-law for the purposes above mentioned in each particular instance; but nothing in this paragraph shall affect any litigation pending on the 30th day of March, 1885, or the rights of the parties thereto; 48 V. c. 39, s. 36.

General by-law for determining property benefited by improvements sufficient.

2. For assessing and levying by means of a special rate, the cost of deepening any stream, creek, or water course, and draining any locality, or making, enlarging or prolonging any common sewer, or opening, widening, prolonging, or altering, macadamizing, grading, levelling, paving, or planking any street, lane, alley, public way or place, or any sidewalk, or any bridge forming part of a highway therein, or curbing, sodding, or planting any street, lane, alley, square, or other public place, or reconstructing, as well as constructing any work hereby provided for;

Assessing and levying upon real property benefited the cost of certain public works.

3. Nothing contained in the preceding sub-sections shall be construed to apply to any work of ordinary repair or maintenance; but all works constructed under the said preceding sub-sections shall thereafter be kept in a good and sufficient state of repair at the expense of the township, city, town, or village generally; 46 V. c. 18, s. 612 (2-3); 50 V. 29, s. 48.

Preceding sub-sections not to apply to certain works.

4. The special rate to be so assessed and levied shall be an annual rate according to the frontage thereof, upon the real property fronting or abutting upon the street or place whereon or wherein such improvement or work is proposed to be done or made, subject to the provisions following, namely:

Rate to be assessed on frontage.

- (a) Unless the majority of the owners of such real property, representing at least one-half in value thereof, petition the council against such assessment, within one month after the last publication of a notice of such proposed assessment, in at least two newspapers published in such township, city, town, or incorporated village, if there are two newspapers published therein; and if there are not, then in a newspaper published nearest to the proposed improvement or work, such publication to be once in each week for

two weeks; any leaseholder, the term of whose lease (including any renewals therein provided for) is not less than twenty-one years, shall be deemed an owner within the meaning of this sub-section if the lessee has therein covenanted to pay all municipal taxes on the demised property during the term of said lease; 46 V. c. 18, s. 612 (4a); 49 V. c. 37 s. 32; 50 V. c. 29, s. 48.

(b) In the event of any such petition against any such proposed assessment, sufficiently signed, being presented to the council, no second notice of assessment for the same proposed improvement shall be given by the council within two years thereafter;

(c) The number of the owners petitioning against the assessment and the value of the real property which they represent, may be ascertained and finally determined in such manner and by such means as are provided by by-law in that behalf. 46 V. c. 18, s. 612 (4 b, c.);

Provision in case of insufficient or excessive assessment.

5. If in any case the first assessment for any local improvement proves insufficient, the council shall make a second in the same manner, and so on until sufficient moneys shall have been realized to pay for such improvements or works, and if too large a sum shall at any time be raised, the excess shall be refunded ratably to those by whom it was paid;

Regulating time and manner of levying assessments, etc.

6. For regulating the time or times and manner in which the assessments to be levied under this section are to be paid, and for arranging the terms on which parties assessed for local improvements may commute for the payment of their proportionate shares of the cost thereof in principal sums;

If funds furnished by parties.

7. For effecting any such improvement as aforesaid with funds provided by parties desirous of having the same effected; 46 V. c. 18, s. 612 (5-7).

Construction of sewers, etc. in part to be provided by Council.

8. If the contemplated improvement is the construction of a common sewer having a sectional area of more than four feet, one-third of the whole cost thereof shall be provided for by the council; the council of any municipality which has not passed a by-law within and under the provisions of section 625 of this Act shall also provide, in connection with all sewers, the cost of all culverts and other works necessary for street surface drainage, and shall also provide the cost of that part of every such work, improvement or service which is incurred at and is chargeable in respect of street intersections, and also that part thereof done or made opposite real property which by any general or special Act is exempt from special or local assessment;

Council to undertake works on petition of owners to be benefited.

9. Upon the receipt of a petition praying for any of the works, improvements or services mentioned in this section, signed by at least two-thirds in number of the owners of any

real property to be benefited thereby, such owners representing at least one-half in value of such real property, the council may make the necessary assessment, pass the necessary by-laws, and take all proper and necessary proceedings for the execution and completion of such work, improvement or service, with as little delay as possible; 47 V. c. 32, s. 21.

10. If the contemplated works or improvements relate to any stream, creek or watercourse, or to draining any locality, and in the opinion of the engineer or surveyor benefit any lands lying within the municipality, or any road or roads lying therein, then the engineer or surveyor aforesaid shall charge the lands to be so benefited, and the corporation, person or company whose road or roads are improved, with such proportion of the cost of the work or improvement as he may deem just; and the amount so charged for roads or agreed upon by arbitration shall be paid out of the general funds of the municipality or company, and the provisions of this Act relating to drainage, so far as applicable, shall apply to any such work or improvement constructed under this section. 48 V. c. 39, s. 29.

Lands benefited to be charged with proportion of cost of certain local improvements.

613. In ascertaining and determining the cost of draining any locality or making and laying or prolonging any common sewer, the council of any township, city, town or incorporated village, may estimate the cost of the construction of branch drains to the line of street, and include the cost of such branch drains in making the assessment for such drains or common sewers, as a local improvement pursuant to the last preceding section. 50 V. c. 29, ss. 48, 49.

Cost of sewers

614. The council of every township, city, town, and incorporated village may, by by-law, provide an equitable mode of assessing for local improvements works and services, corner lots, triangular or other irregular shaped pieces of land situate at the intersections or junctions of streets, having due regard to the situation, value and superficial area of such lots, as compared with adjoining lots and pieces of land assessable for such improvements, works and services, and may charge the amount of any allowance, made on any such lot or piece of land, on the other real property fronting on the improvements, or assume the same as a portion of the municipality's share of the work or improvements; the said matters to be subject to appeal to the County Court Judge as already provided. 46 V. c. 18, s. 613; 50 V. c. 29, s. 48.

Assessment of corner lots, etc., for local improvements.

615. It shall and may be lawful for the council of any township, city, town, or incorporated village by a two-thirds vote of the council to pass by-laws to remit and refund so much of the special rates imposed prior to the 30th day of March 1885, on corner lots and irregular pieces of land for the construction of pavements and sidewalks under local improvement by-laws as may be necessary to equalize the assessment made

Refund of part of special rate for local improvements imposed on corner lots, etc.

on such property with the assessment made on adjoining properties for the same improvement or work, and to provide the amount of all rates so remitted or refunded by passing by-laws for borrowing money by the issue of debentures, or by including said amounts in the rate bills for the year; provided that no such remission or refund shall be made in any case where the work or improvement shall have been made or constructed more than four years before the passage of the by-law authorizing the refund or remission. 48 V. c. 39, s. 35; 50 V. c. 29, s. 48.

Completion of
local improve-
ments.

46 V. c. 18.

616. In any case when notice of a proposed improvement, work or service, to be paid for by special assessment as a local improvement, has been given by any council of any municipality pursuant to the provisions of chapter 174 of the Revised Statutes of Ontario, 1877, or of *The Consolidated Municipal Act, 1883*, or any amending Act or Acts, and no petition sufficiently signed has been presented to the said council or to the succeeding council against such proposed improvement, work or service and assessment within the time limited in that behalf by the said Acts, it shall be lawful for the said council, in the same or any succeeding year, to carry on the proposed work, improvement or service to completion, before making the assessment therefor; and such notice, so given, shall stand good as authority for undertaking any such work, improvement or service, and making such assessment or assessments, and passing all necessary by-laws, whether the same shall have been or shall be undertaken and completed by the council giving such notice, or by the council in any succeeding year. 49 V. c. 37, s. 40.

How propor-
tion of cost of
local improve-
ments is to be
determined
in special
cases.

617. Where the lands on either side of a street, lane, or alley in a city, town or incorporated village, in the opinion of the council, are from any cause unfit for building purposes, and the council deem it inequitable to assess the same for local improvements at as high a rate as the building lots fronting on said street, lane or alley, the council shall, in all such cases, determine in what proportion the cost of any such improvement shall be borne by the lands on each side of said street, lane, or alley, respectively. 46 V. c. 18, s. 614.

Cost of open-
ing and
extending
streets.

618.—(1) Where it shall, in the opinion of the council of any township, city, town or incorporated village, be deemed expedient and necessary to construct or repair bridges or culverts on any street, lane or alley, or to open up and extend any street, lane or alley within the limits thereof for the more immediate convenience or benefit of any locality within such limits, and the council is of opinion that from any cause it is inequitable to charge the whole of the cost of the improvement on the lands fronting thereon, the council shall determine what lands are benefited by the extension, opening up and improving such street, lane, or alley, and the proportion in which the cost thereof shall be

assessed against the lands so benefited, and also the proportion, if any, of the cost of the improvement, which shall be assumed by the township, city, town or incorporated village as its share thereof: provided always that the share or proportion of the cost of such improvement assumed by the municipality may be provided for by the issue of debentures upon the credit of the municipality at large in like manner as in the case of the share of the municipality of other local improvements: provided, also, that all assessments made under the above provisions shall be subject to an appeal to the Judge of the County Court in like manner as in the case of other special assessments for local improvements, under the provisions of this Act. 48 V. c. 39, s. 33; 50 V. c. 29, ss. 43, 48.

(2) In any case when the council affirms by a two-thirds vote thereof that the constructing, erecting, or making of any bridge, culvert or embankment, benefits the municipality at large, and that it would be inequitable to raise the whole cost of such improvement or work by local special assessments, the council may pass a by-law for borrowing money by the issue of debentures upon the credit of the municipality at large to provide as the corporation's share of the cost of such improvement or work an amount not exceeding one-half of the whole cost thereof; and no such by-law shall require the assent of the electors before the final passing thereof. 50 V. c. 29, s. 43.

619. If in the case of the construction or repair of a bridge or culvert, or the opening up and extension of any street, lane, or alley, the council shall determine what real property other than that fronting or abutting upon the street, lane, or alley, whereon or wherein the improvement is made, or to be made, is specially benefited, and ought to be charged with a part of the cost thereof, and shall determine the proportion in which the cost of the improvement shall be assessed against the lands so benefited, the council shall assess and levy the proportion of the cost of the improvement chargeable against the lands benefited, but not fronting or abutting upon such street, lane, or alley, by a frontage rate, in like manner as the same would be assessed and levied in the case of lands fronting or abutting upon the street, lane, or alley, whereon or wherein the improvement is made or to be made. 48 V. c. 39, s. 34.

Assessment of lands benefited by improvements where land does not front on street on which improvement made.

620. The council may permit the owner or owners to build or improve the sidewalk in front of his or their lands, and any street, lane, or alley, within a township, city, town, or incorporated village, under the direction of the council or an officer thereof appointed for that purpose, and according to such plans and regulations as the council may prescribe, in which case the owners or occupants of such lands shall be exempt from all taxes for improvements of a like nature so long as he or they shall keep the same in repair to the satisfaction of the council. 46 V. c. 18, s. 616; 50 V. c. 29, s. 48.

Council may permit owners to build or improve sidewalks in front of their lands.

Power to borrow funds for local improvements.

621.—(1) For the purpose of enabling councils to avoid the necessity of making supplementary assessments, or refunding in case of over assessments, and of ascertaining the exact cost of any work or improvement, done or constructed, as a local improvement under the provisions of this Act, they may and they are hereby authorized and empowered to make agreements with any bank, or any person or body corporate for temporary advances and loans until the completion of the work or improvement, for meeting the cost thereof, and they may and they are hereby authorized and empowered in their option to make the special assessments for the cost thereof, after the work or improvement, as the case may be, shall have been completed, and to pass the necessary by-law authorizing the issue of debentures to repay the amount of the temporary loan or advance.

Time for repayment of loans.

(2) Every by-law for borrowing money shall provide for the repayment of the loan and the maturing of debentures to be issued pursuant to such by-law, within the probable life of the work or improvement for which such debt has been incurred, as certified by the engineer, or other proper officer, to be appointed by the council for that purpose.

Where special assessments are irregular, new assessments may be made.

(3) If, in any case a debt has been incurred by the municipality for any work or improvement done or constructed under the provisions of this Act, and after the incurring of the said debt the special assessment for such work or improvement or the by-law providing for borrowing money therefor, be set aside or quashed, either wholly or in part, on the ground of any irregularity or illegality in the making of such assessment or passing such by-law, it shall be lawful for the council, and they are hereby authorized, to cause a new assessment or assessments to be made, and to pass a new by-law, so often as may be necessary to provide funds for the payment of the debt so incurred for such work or improvement: Provided always that nothing herein contained shall be construed as authorizing any assessment to be made, or work or improvement to be undertaken, except the same be initiated in some one of the three methods by law provided, namely:

- (a) Either on the report of the engineer or other sanitary officer, and of a committee of the council, recommending the proposed work or improvement for sanitary or drainage purposes adopted by the council; or
- (b) On a petition of the owners of the real property benefited, sufficiently signed; or
- (c) After due notice, as above provided, of the proposed assessment, and no petition of the owners of the real property benefited, against the proposed assessment, sufficiently signed, being presented to the council within the time limited therefor.

(4) Any real property specially assessed by any council for any local improvement or work under this Act, and real property where such improvement or work has been done with moneys provided by the owners of such real property, and real property the owners of which have constructed their own works and improvements, which would otherwise have been constructed by the municipality as local improvements, shall be exempted by the council from any general rate or assessment for the like purpose, except the cost of works and improvements at the intersection of streets, and except such portion of the general rate as may be imposed to meet the cost of works and improvements opposite real property which is exempt from such special assessments, and the general rate which may be imposed to meet the cost of maintenance and repairs on works and improvements constructed under local improvement by-laws. 46 V. c. 18, s. 617.

Property charged with local improvements to be exempt from general rates for same purpose.

622.—(1) No by-law passed by the council of any township, city, town or incorporated village, under the provisions of sections 569, 570, or 612 of this Act, shall require to be advertised or published by the said council in any newspaper, but a written or printed, or partly written and partly printed, notice of the sitting of the Court of Revision for the confirmation of every such special assessment shall be given to the owners, lessees and occupants, or the agents of the owners, lessees and occupants, of each parcel of real estate included in such by-laws and assessment. 46 V. c. 18, s. 618 (1); 50 V. c. 29, s. 48.

By-laws need not be advertised, but notice of the sitting of the court of revision shall be served on owners, lessees, etc.

(2) Every such notice shall contain a general description of the property in respect of which the same is given, the nature of the proposed improvements, work or service, the estimated total cost thereof, the amount of the assessment on the particular piece of property, and the time and manner in which the same is payable, and shall be signed by the clerk, or the assessment commissioner, or other officer to be appointed by the council for the purpose, and be mailed to the address of the person entitled to notice, at least fifteen days before the day appointed for the sittings of the said Court, and ten days' notice shall also be given by publication in some newspaper, having a general circulation, of the time and place of the meeting of the said Court, which notice shall specify generally what such assessment is to be for and the total amount to be assessed. 46 V. c. 18, s. 618 (2); 50 V. c. 29, s. 44.

623.—(1) Where a by-law passed under the provisions of section 612 of this Act provides, or is intended to provide, that the special rate assessed thereunder shall be a frontage rate, it shall not be necessary to comply with the provisions of sub-section 1 of the said section, or to advertise or publish the by-law, or to comply with the provisions of the next preceding section of this Act, but it shall be sufficient if the by-law describe the street or place or part thereof, whereon or wherein

General description in by-laws under s. 612, sufficient where special rate is a frontage rate.

the local improvement is to be made by a general description thereof, stating the points between which it is to be made, and it shall not be necessary for such by-law to state the value of the real property ratable thereunder, or to impose a rate upon such real property, by any description other than that hereinbefore mentioned.

(2) In cases to which the next preceding sub-section applies, the council shall procure a measurement of the frontage liable to the rate mentioned therein, and of the frontages exempt from taxation, and of the frontages of the several lots or parcels of land liable to such rate, and shall keep a statement of the same open for inspection in the office of the clerk of the municipality for at least ten days before the final passing of the by-law, and the council shall also cause to be inserted in a public newspaper published within the municipality, or in the county town, or in a public newspaper published in the nearest municipality in which a public newspaper is published, once a week for two successive weeks, a notice in the form following or to the like effect:

Take notice that a by-law is intended to be passed by the Municipal Council of the Corporation of the _____ of _____ for levying a frontage rate to pay for the *(describing the work)* constructed *(or made)* or to be constructed *(or made)* *(as the case may be)* on _____ street, between *(describing the points between which the work has been or is to be made or constructed)* and that a statement shewing the lands liable to pay the said rate and the names of the owners thereof, so far as they can be ascertained from the last revised assessment roll, is now filed in the office of the Clerk of the Municipality and is open for inspection during office hours.

The cost of the work is \$ _____ of which \$ _____ is to be provided out of the general funds of the municipality.

A Court of Revision will be held on _____ at _____ for the purpose of hearing complaints against the proposed assessment or accuracy of the frontage measurements or any other complaint which persons interested may desire to make, and which is by law cognizable by the court.

Dated _____

Clerk.

(3) There shall be the same right of appeal from any such assessment to the Court of Revision, and from the Court of Revision to the County Judge, as is provided in section 569 of this Act, and the proceedings thereon shall, except as otherwise provided by this Act, be the same (as nearly as practicable) as in the case of appeals from ordinary assessments under *The Assessment Act*, and the Court of Revision and the County Judge shall respectively have the like jurisdiction, rights and powers in respect to every such appeal as in the case of such last mentioned appeals.

(4) The said statement, or the same as altered or varied by the Court of Revision or the County Judge upon appeal, shall be final and conclusive as to all matters therein contained.

48 V. c. 39, s. 38.

624.—(1) Any real property specially assessed by any council for any local improvement or work under this Act, shall be exempted by the council from any general rate or assessment for the like purpose, except the cost of works at the intersection of streets, and except such portion of the general rate as may be imposed to meet the cost of like works opposite real property which is exempt from such special assessment.

Property specially assessed to be exempt from general assessment for same purpose.

(2) Where a local improvement or service is petitioned for and the petition is by two-thirds in number of the owners of the real property fronting or abutting upon the street or place wherein or whereon such improvement or work is proposed to be done or made, the exemption may be for a specified period named in the petition and agreed to by the council.

(3) Or if, either with or without naming any period for such exemption, the petition requests an arbitration, the council may accede to the proposal for an arbitration.

(4) In case the matter is to be determined by arbitration, a sole arbitrator shall be chosen for the purpose by the county Court Judge, unless some person or persons is or are agreed to in that behalf by the petitioners and the council.

(5) Where, by reason of a special assessment, the owners are exempted from a general rate, for the like purpose, as aforesaid, the council shall, from year to year, by by-law directing the general rate of assessment, or by some other by-law, state what proportion of the general rate is for purposes for which there is such special assessment in any part of the municipality, and shall state the same in such manner as may give effect to this section.

(6) Until a by-law is passed containing such statement, none of the money raised by general rate on real property specially assessed or rated for any work or service hereafter executed shall be applied to any work or service of the same character in any part of the municipality. 46 V. c. 18, s. 619.

625.—(1) The council of any township, city, town or incorporated village may, by a by-law, passed with the assent of the electors according to the provisions of this Act, direct that all future expenditure in the municipality for the improvements and services, or for any class or classes of improvement or service, for which special provisions are made in sections 612 and 629, shall be by special assessment on the property benefited, and not exempt by law from assessment.

By-laws directing improvements to be made by local assessment.

(2) After such a by-law has been passed in manner aforesaid, it shall not be repealed without the like assent of the electors; and, in case of such repeal, the preceding section, with respect to freedom from any general rate or assessment of property which is subject to a special rate, shall apply to all property which had been specially rated or assessed for such improve-

Repeal of by-laws.

ment or service, while the repealed by-law was in force. The time the exemption is to cease, is to be determined by arbitration, and the arbitrator is to be appointed by the County Judge, on the application of the council. 46 V. c. 18, s. 620; 50 V. c. 29, s. 48.

Repairing and
cleaning
streets.

(3) Notwithstanding anything contained in sub-section 3 of section 612, after such a by-law has been passed in manner aforesaid, the council may pass a by-law or by-laws dividing the municipality into certain areas, districts or sections within which the streets or parts of streets may be maintained, repaired, cleaned, cleared of snow and ice, watered, swept, lighted and the grass therein cut and trees therein trimmed, and may impose a special rate upon the assessed real property therein, according to the frontage thereof, in order to pay any expenses incurred in maintaining, repairing, cleaning, clearing of snow and ice, watering, sweeping and lighting such streets or parts of streets, and cutting grass and trimming trees therein, or for any one or more of such services. 48 V. c. 39, s. 30.

Assessment of
places of wor-
ship for local
improvements.

626. With respect to land on which a place of worship is erected, and land used in connection therewith, the municipal council may, by the by-law to be passed in that behalf, require the corporation, trustees, and other persons in whom is vested any such property, and the said property, to be assessed for any local improvement in the same manner, and to the same extent, as the other owners and land benefited by the improvement, in the following cases, namely:

1. In case a by-law is passed under the preceding section;
2. Or in case no such by-law is passed, but two-thirds of the owners of the real property to be benefited by the proposed improvement (excluding such corporation, trustees, or other persons aforesaid), representing at least one-half in value of the remaining property, petition the council to undertake the said improvement;
3. Or in case no such by-law is passed as aforesaid, but the said corporation, trustees or other persons, and two-thirds of the owners of the real property to be benefited by the proposed improvement (including the said corporation, trustees, or other persons), representing at least one-half in value of the property, including the said property so vested in the corporation, trustees, or other persons aforesaid, petition the council for the said improvement. 46 V. c. 18, s. 621.

Certain part of
improvements
may be charg-
ed on general
rates.

627.—(1) In case of a special assessment on property benefited by local improvement, the council of the municipality (if they think fit) may, by by-law, provide for constructing, at the expense of the general funds of the municipality, such part of the local improvement as is situate upon or in that part of any street, lane, alley, public place, or square, which is intersected by any other street, lane, alley, public place, or square, or as

would otherwise fall on property exempt from assessment: and the council may provide for the cost in the general rates or taxes for the year, or by the issue of debentures, or in such other manner not inconsistent with the provisions of this Act, or any special Act, as to said council may seem best, and subject to such by-laws as the council may pass in that behalf.

(2) The by-law authorizing the issue of the debentures need not be submitted for the assent of the electors of the municipality; and the debentures being issued to pay for that part of the work payable by local assessment may, if the council thinks fit, be issued as a series distinct from those required to pay for that part which is to be borne by the general funds of the municipality, or all the debentures required for the work may be issued in one series, as "Local Improvement Debentures." This sub-section shall be deemed declaratory of the law on and from the 5th day of March, 1880. 46 V. c. 18, s. 622.

Provisions as to "Local Improvement Debentures."

628.—(1) The council of any township, city, town, or incorporated village may pass all by-laws necessary, from time to time, to raise loans and borrow moneys required for its share of any local improvements and works, on the credit of such township, city, town or incorporated village at large; and it shall not be necessary to obtain the assent of the electors of such township, city, town, or village to the passing of any such by-law under the provisions of this Act, any special or private Act in that behalf to the contrary notwithstanding; provided always that nothing in this section contained shall be construed as authorizing an extension of the general debt of such township, city, town, or village beyond the limits thereof fixed by any Act limiting the same.

Assent of electors not required to by-laws for raising Municipality's share of cost of local improvements.

(2) It is hereby declared that the debentures issued under local improvement by-laws on the security of special assessments therefor form no part of the general debt of any such municipality, within the meaning of any such last above-mentioned Act, and it shall not be necessary to recite the amount of such local improvement debt so secured by special rates or assessments in any by-law for borrowing money on the credit of the township, city, town, or incorporated village at large as aforesaid, but it shall be sufficient to state in any such by-law, that the amount of the general debt of the municipality as therein set forth is exclusive of local improvement debts, secured by special Acts, rates or assessments. 46 V. c. 18, s. 623; 50 V. c. 29, s. 48.

Sweeping, Lighting and Watering Streets.

629.—(1) The council of every township, city, town and incorporated village may pass by-laws for raising, upon the petition of at least two-thirds of the freeholders and householders resident in any street, square, alley or lane, representing in value one-half of the assessed real property therein, such

Sweeping lighting and watering streets.

sums as may be necessary for sweeping, watering or lighting the street, square, alley or lane, by means of a special rate on the real property therein, according to the frontage thereof, or according to the assessed value thereof when only such latter system of assessment shall have been adopted by a three-fourths vote of the full council ; but the council may charge the general corporate funds with the expenditure incurred in such sweeping, watering or lighting as aforesaid. 46 V. c. 18, s. 624 (1) ; 50 V. c. 29, ss. 45, 48.

Special rate
may be im-
posed therefor.

(2) The council may also, by by-law, define certain areas or sections within the municipality, in which the streets should be watered, swept and lighted, and may impose a special rate upon the assessed real property therein, according to the frontage thereof, in order to pay any expenses incurred in watering, sweeping or lighting such streets. 46 V. c. 18, s. 624 (2).

Cutting grass,
etc.

(3) The council may also include in either of the foregoing by-laws, the cutting of grass and weeds, and trimming the trees or shrubbery on any such street, square, alley or lane, and otherwise cleaning the same. 48 V. c. 39, s. 31.

Removal of
snow, ice, etc

(4) The council may also by by-law define certain areas or sections within the municipality in which all snow, ice and dirt and other obstructions shall be removed from the side-walks, streets, lanes or alleys, in such area or sections, and may impose a special rate upon the real property therein, according to the frontage thereof, in order to pay any expenses incurred in removing such snow, ice, dirt, or other obstruction. 50 V. c. 29, s. 46.

DIVISION II.—TOWNSHIPS AND VILLAGES.

Light and Water. Sec. 630.

Lighting and
water-works.

630.—(1) In addition to the powers conferred upon the councils of townships and incorporated villages by sections 612 to 628, both inclusive, of this Act, the council of any such township or village, under and subject to the provisions of the said sections, may pass by-laws providing for lighting, or for the construction of water works for the purpose of fire protection.

(2) The said council may, by the same or any subsequent by-law, define by metes and bounds, or otherwise, what real property will be immediately benefited by the proposed improvement, and is to be charged with the cost thereof, and may also, by such by-law, make provision for assessing and levying on the property so defined the cost of managing and maintaining the said works.

(3) Sub-section 3 of section 612 of this Act, shall not apply to any works constructed under the powers by this section conferred. 48 V. c. 39, s. 32 ; 50 V. c. 29, s. 48.

DIVISION III.—COUNTIES.

Special rates by County Councils for local improvements in Townships. Secs. 631-633.

631. The council of every county shall have power to pass by-laws for levying, by assessment on all ratable property within any particular part of one or parts of two townships to be described by metes and bounds in the by-law, in addition to all other rates, a sum sufficient to defray the expenses of making, repairing or improving any road, bridge, or other public work, lying within one township or between parts of such two townships, and by which the inhabitants of such parts will be more specially benefited, but this section shall not apply to any road, bridge or other public works within the limits of any town or incorporated village. 46 V. c. 18, s. 625.

Special rates
for local im-
provements.

632. No by-law under the last preceding section shall be passed, except—

Proceedings
to obtain by-
law for such
improve-
ments.

1. Upon a petition signed by at least two-thirds of the electors who are rated for at least one half of the value of the property within those parts of such township which are to be affected by the by-law; nor

2. Unless a printed notice of the petition, with the names of the signers thereto, describing the limits within which the by-law is to have force, has been given for at least one month, by putting up the same in four different places within such parts of the township, and at the places for holding the sittings of the council of each township, whether it be within such parts or not, and also by inserting the same weekly for at least three consecutive weeks in some newspaper (if any there be), published in the county town, or if there is no such newspaper, then in the two newspapers published nearest the proposed work. 46 V. c. 18, s. 626.

Notice to be
posted up,
and published
for three
weeks.

633.—(1) A county council may, by by-law, assume or acquire any road, bridge or other public work, lying within or adjacent to one or more townships or incorporated towns or villages, and may, by by-law, raise by way of loan, a sum of money for the improvement of such road, bridge or public work, to be repaid by a special assessment on all the ratable property within the municipalities which shall be immediately benefited by such road, bridge or public work. 46 V. c. 18, s. 627 (1); 49 V. c. 37, s. 34.

Power to pass-
by-laws acquir-
ing roads, etc.,
lying within
one or more
townships,
etc., and to
levy special
rate for im-
provement
thereof.

(2) Such by-law shall state the amount to be raised for such work, and shall define the municipalities forming the portion of the county municipality to be affected by the by-law, and the portion of work to be performed in each municipality, and shall provide for the raising of the said amount by the issue

Particulars
which are to
be stated in
the by-law.

of debentures of the county, payable in twenty years, or by equal annual instalments of principal, with interest, and shall provide for assessing and levying upon all the ratable property, lying within the section defined in such by-law, an annual special rate sufficient for the payment of the principal and interest of the debentures.

By-law to be submitted to electors in portion of county interested.

(3) The by-law shall, if approved by a majority of the representatives in the county council of the municipalities which are defined in the said by-law, be submitted to the vote of the qualified ratepayers in the portion of said county to be affected by said by-law who are entitled to vote on money by-laws.

By-law only to apply to those municipalities in which it has a majority of votes.

(4) In case there should be a majority of votes cast against the by-law in any one or more of the municipalities mentioned therein, although the by-law be carried, then the same shall only apply to those municipalities in which it has received a majority of the votes cast, and shall not affect the other municipalities mentioned, in any way, and the amount of money mentioned in the by-law to be raised by way of loan, shall be reduced by the proportionate amount which the said municipality or municipalities, giving a majority of votes against the by-law, would have been required to pay under the by-law.

By-law, if carried in some municipalities only, may be passed or dropped.

(5) In case there should be a majority of votes cast against the by-law in any one or more municipalities mentioned therein, although the by-law be carried, then upon the approval of the majority of the representatives in the county council of the municipalities which have given a majority of votes in favour of the by-law, the same may be read a third time and passed by the county council, or dropped altogether; but in case the by-law is finally passed, only the representatives in the county council of those municipalities giving a majority in favour of the by-law, and to be affected by the same, shall have any voice in reference to the expenditure of the money to be raised thereby.

General provisions to apply to voting, etc.

(6) In all other respects the voting on the by-laws, and the passing and subsequent proceedings thereon, shall be in accordance with the provisions of this Act. 46 V. c. 18, s. 627 (2-6).

(7) Cities and towns separated from the county may, with the approval of the ratepayers qualified to vote on money by-laws, pass similar by-laws to assist in the purchase of any toll roads, in which the cities or separated towns may be interested, or may pass by-laws abolishing the market fees charged by them, on condition that certain toll roads therein named are made free. 49 V. c. 37, s. 34, *part*.

EXTRACT FROM THE ASSESSMENT ACT.

Revised Statutes, cap. 193.

Statute Labour in Unincorporated Townships—Road Commissioners.

102. Twenty resident landholders in any township which has not been incorporated (either alone or in union with some other township shall have the right to have a public meeting called for the purpose of electing road commissioners. 46 V. c. 22, s. 1. Meeting for election of road commissioners.

103. The persons desiring the meeting to be called shall sign a requisition authorizing some person named in the requisition, and who may either reside in the township or otherwise, to call a meeting of the resident landholders of the township for the purpose aforesaid. 46 V. c. 22, s. 2. Requisition for meeting.

104. In case the person so named declines to call a meeting or neglects to do so, for ten days after the request is presented to him, any three of the persons who signed the requisition may call the meeting. 46 V. c. 22, s. 3. How meeting may be called in case person named in requisition fails to call it

105. The notice calling the meeting shall name a place, day and hour, where the meeting is to be held; it shall be posted at six places at the least in the township, and the day named shall be at least six days distant from the day of posting the notice. 46 V. c. 22, s. 4. Notice of meeting.

106. The election shall take place at the time named, and the number of the commissioners to be elected shall be either three or five, as may be stated in the requisition, unless the meeting shall, before proceeding to an election, decide that a number different from that stated in the requisition shall be elected, but such number shall not be less than three nor more than five. 46 V. c. 22, s. 5. Number of commissioners.

107. In case the meeting is called by the person named in the requisition, he shall be entitled to preside at the meeting as chairman, but if he is absent, or declines to act, the landholders present may appoint another chairman; the chairman shall act as returning officer, and shall, in the event of a tie, have a casting vote, although he may have previously voted, or may not be a landholder of the township; the landholders present shall also appoint a secretary, who shall record the proceedings. 46 V. c. 22, s. 6. Chairman of meeting.

Mode of voting.

108. The landholders present shall decide how the voting for commissioners shall be conducted, and if the vote is taken openly the commissioners shall be elected one at a time, but if it is decided to proceed by ballot all the commissioners shall be elected together, each person having the right to vote for as many persons as there are commissioners to be elected. 46 V. c. 22. s. 7.

Record of persons voting.

109. The chairman shall, at the request of any two landholders present, direct the secretary to record the names of all persons voting and (unless the vote is by ballot) how each votes. 46 V. c. 22, s. 8.

Objections to voters.

110. If an objection is made to the right of any person to vote at the meeting, such person shall name the property in respect of which he claims the right to vote, and the chairman shall administer to such person an oath, or affirmation if he be by law permitted to affirm, according to the following form whereupon such person shall be permitted to vote :

You swear (or, if the voter is entitled to affirm solemnly affirm, as the case may be), that you are of the age of twenty-one years, and that you are the owner or locatee of lot _____ in the concession of this township, and that you are entitled to vote at this election.

So help you God.

46 V. c. 22, s. 9, Form A.

Term of office.

111. The commissioners elected shall hold office until the 31st day of December next after their election. 46 V. c. 22, s. 10.

First meeting of commissioners.

112. The commissioners shall meet within a fortnight after their election ; and shall then, or as soon thereafter as may be, name the roads and parts of roads upon which statute labour is to be performed, and shall appoint the places and times at which the persons required to perform statute labour are to work. 46 V. c. 22, s. 11.

Time for performance of statute labour.

113. The times to be appointed for the performance of statute labour shall, unless the meeting of landholders to elect commissioners otherwise directs, be not earlier than the 20th day of June, nor later than the 20th day of July in any year. 47 V. c. 32, s. 24.

Ratio of service by owners and locatees of land.

114. Each owner or locatee of land may be required each year to perform two days' labour for every one hundred acres he holds, and for the first ten acres which he has cleared after the first ten, he may be required to perform one day's additional labour, and for every twenty acres over and above the first ten, one additional day's labour. 46 V. c. 22, s. 12.

115. Each commissioner shall, during the time he is required to perform statute labour, act as overseer, and the commissioners shall arrange among themselves for overseeing the various bodies of men engaged in doing statute labour. A commissioner may be paid out of the commutation fund for not exceeding two days' labour at the rate of of \$1.25 per day, if performed by him over and above the number of day's labour he may by law be required to perform in respect of his own property. 46 V. c. 22, s. 13.

Commission-
ers to oversee
wo

116. Any person instead of performing the statute labour required of him may commute therefor by payment at the rate of \$1 per day, and the commissioners shall expend all commutation moneys upon the roads on which the labour which is commuted for should have been performed. 46 V. c. 22, s. 14.

Commutation.

117. The majority of the commissioners may call a meeting, to be held at any time during the month of January, for the election of their successors, but in case of their failure so to do, a meeting may be called in the manner hereinbefore provided for a first election. 46 V. c. 22, s. 15.

Meeting for
election of
new commis-
sioners.

118. Any person liable to perform statute labour under the next preceding 16 sections, who, after six days' notice requiring him to do the same, wilfully neglects or refuses to perform, at the time and place named by the commissioners, the number of days' labour for which he is liable, shall incur a penalty of \$5, and in addition \$1 for each day in respect of which he makes default, the same to be paid to the commissioners and to be expended in improving the said roads, and upon such person's conviction thereof before a Justice of the Peace having jurisdiction in the township, such Justice shall order the penalty together with costs of prosecution and distress, to be levied by distress of the offender's goods and chattels. 46 V. c. 22, s. 16.

Penalty for
neglect to
perform work.

CHAPTER 220.

An Act respecting Ditches and Watercourses.

As amended by Ont. Statutes, 1888-89 and '90.

SHORT TITLE, s. 1.	COLLECTION AND PAYMENT OF COSTS AND FEES, ss. 14-18.
APPOINTMENT OF ENGINEER, s. 2.	SERVICE OF NOTICES, s. 19.
APPLICATION OF ACT, s. 3.	ACT TO APPLY TO MUNICIPAL CORPORATIONS, s. 20.
DUTY OF ADJOINING OWNERS, s. 4.	POWER AS TO COVERING DRAINS, ss. 21-24.
PROCEEDINGS WHERE ADJOINING OWNERS DISAGREE, ss. 5-7.	USE OF DRAIN BY SUBSEQUENT PARTIES, s. 25.
DUTIES OF ENGINEER, ss. 8, 9.	CONTINUATION OF DRAIN INTO ADJOINING MUNICIPALITY, s. 26.
Award of engineer to be filed, s. 10.	SCALE OF FEES, s. 27.
APPEAL FROM AWARD, s. 11.	ACT TO APPLY TO DEEPENING OR WIDENING A DITCH OR DRAIN, s. 28.
Compelling attendance of witnesses on appeal, s. 12.	
PAYMENT TO CONTRACTOR, s. 13.	
INSPECTION OF WORK, ss. 15-17.	

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:—

Short title. 1. This Act may be cited as "*The Ditches and Watercourses Act.*" 46 V. c. 27, s. 1.

Engineer appointment of 2.—(1) Every municipal council shall name and appoint by by-law an engineer to carry out the provisions of this Act, and such engineer shall be and continue an officer of such corporation until his appointment is repealed by by-law and another engineer appointed in his stead, who shall have authority as well to take as to continue any proceeding already commenced under this Act.

(2) The word "engineer" in this Act shall mean civil engineer, land surveyor, or such person as any municipality may deem competent to perform the duties required under this Act. 46 V. c. 27, ss. 4, 21.

Certain Acts not affected. 3. This Act shall not affect the Acts relating to municipal or government drainage. 46 V. c. 27, s. 2.

Owners of adjoining lands to construct ditches in certain proportions. 4.—(1) In case of owners of lands, whether immediately adjoining or not, which would be benefited by making a ditch or drain or by deepening or widening a ditch or drain already made in a natural watercourse, or by making, deepening or widening a ditch or drain for the purpose of taking off surplus water or in order to enable the owners or occupiers thereof the

better to cultivate or use the same, such several owners shall open and make, deepen or widen a just and fair proportion of such ditch or drain according to their several interests in the construction of the same; and such ditches or drains shall be kept and maintained so opened, deepened or widened by the said owners respectively, and their successors in such ownership, in such proportions as they have been so opened, deepened or widened, unless in consequence of altered circumstances the engineer hereinafter named otherwise directs which he is hereby empowered to do upon application of any party interested, in the same form and manner as is hereinafter prescribed in respect of the original opening, deepening or widening; and in case the engineer finds no good reason for such application all costs caused thereby shall be borne by the applicant and shall be collected as in this Act provided. 46 V. c. 27, s. 3.

(2) Every such ditch or drain shall be continued to a proper outlet, so that no lands, unless with the consent of the owner thereof, will be overflowed or flooded through or by the construction of any such ditch or drain and it shall be lawful to construct such ditch or drain, through one or any number of lots until the proper outlet is reached. 47 V. c. 43, s. 1. Proper outlet must be reached.

(3) Such consent shall be in writing, and signed by the party consenting and shall be filed with the clerk of the municipality, with the award and may be recited or referred to therein. Consent as to flooding land to be in writing.

(4) If after a ditch or drain has been constructed under the provisions of this Act, and in case any owner whose duty it is to maintain, and keep in repair any portion of such ditch or drain neglects to keep such portion in a proper state of repair any one of the owners who is liable for maintaining and keeping in repair any portion of such ditch or drain may in writing notify the owner who neglects to keep his portion of such ditch or drain in a proper state of repair, to have the same put in such repair, and to have the same completed within thirty days from the receipt of such notice. Notice to owner to repair.

(5) The owner who serves the notice may, if the work has not been performed at the expiry of the thirty days, make application to the council of the municipality to have the repairs carried out and completed. Application to municipality on owner's default.

(6) The council shall when such application is made, order an examination of such portion of the ditch or drain as is complained of, to be made by the engineer of the municipality or by some other person to be appointed by the council, and who may be called the "Inspector of drains and ditches." The inspection shall be made not later than twelve days from the time of the ordering the same, and the engineer or inspector as the case may be, shall within twelve days after making the inspection, file with the clerk of the municipality a certificate, stating whether the complaint is well founded or not, and wherein the ditch or drain requires repairing. Inspection by engineer.

Report of in-
specter that
complaint
well founded.

(7) If the engineer or inspector (as the case may be) certifies that the complaint is well founded, then in such case the council shall order him to proceed and let the work as provided in section 15, for re-letting work, unless the owner has himself in the meantime completed such repairs in accordance with the report or certificate of the engineer or inspector. The provisions of sections 16 and 18, shall apply as to inspection and payment of engineer's or inspector's fees and costs of work, and the council may by by-law fix the remuneration of the inspector during the time he may be engaged in the performance of any duties under this Act. A member of the council shall not be appointed inspector.

Report of in-
specter that
claim not well
founded.

(8) If the engineer or inspector decides that the complaint is not well founded, then in such case the party making the complaint shall pay the fees of the engineer or inspector, as the case may be, and if not paid by him they shall be paid and charged as provided in section 18.

Appeal.

(9) Any owner or party interested under proceedings taken under or by virtue of the preceding six sub-sections, shall have the right of appeal as provided by this Act, where the amount involved exceeds the sum of \$20. 50 V. c. 37, s. 1.

Proceedings to
effect an agree-
ment in case of
dispute.

5. In case of dispute between owners respecting such proportions, any owner shall, before filing with the clerk of the municipality the requisition provided for in section 6 of this Act (Form C or to the like effect), serve upon the other owners or occupants of the lands to be affected a notice in writing signed by him (Form B or to the like effect), naming a day, hour and place convenient to the ditch or drain at which the parties are to meet, and, if possible, agree upon the respective portions of the ditch or drain to be made, deepened or widened by each of them, the notice to be served not less than twelve clear days before time of meeting: and in case at the meeting an agreement shall be come to between the parties, the agreement shall be reduced to writing (Form A or to the like effect), and shall be signed by all the parties and shall, within four clear days from the signing thereof, be filed with the clerk of the municipality in which the land requiring the ditch or drain is situate, and the agreement may be enforced in like manner as an award of the engineer as hereinafter provided. 46 V. c. 27, s. 5; 50 V. c. 37, s. 2.

Section 6 was amended by Ont. Statutes of 1889, Chapter 49, and now reads as follows:—

Proceedings in
case no agree-
ment is come
to.

6. In case the parties at the meeting shall not agree, any owner may file with the clerk of the municipality in which the lands requiring such ditch or drain are situated a requisition (Form C or to the like effect) shortly describing the ditch or drain to be made, deepened or widened, and naming the lands which will be affected thereby and the owners respectively, and

requesting that the engineer appointed by the municipality for the purpose be asked to appoint a day in which he will attend at the place named in the requisition, which shall not be less than ten nor more than sixteen clear days from the day on which he received a copy of said requisition and shall also at least four clear days before the time appointed serve upon all the persons named in such requisition a notice (Form D or to the like effect) requiring their attendance at the said time and place: Provided, nevertheless, that when it shall be necessary in order to obtain an outlet, that the drain or ditch shall pass through or partly through the lands of more than five owners (the owner first mentioned in this section being one). the requisition shall not be filed, unless:

- (a) Such owner shall first obtain the assent, in writing thereto of (including himself) a majority of the owners affected or interested; or,
- (b) Unless a resolution of the council of the municipality in which the greater portion of the work is to be done, approving of the scheme or proposed work, shall be first passed after those interested have been heard or have had an opportunity to be heard by the council upon notice to that end;
- (c) When the engineer shall under section 8 of this Act require other parties whom he deems interested to be notified, he shall not assess or bring in without his or their assent more than one additional interested person when the majority of those so notified and interested are opposed to being so brought in or assessed;
- (d) Unless the assent (by resolution) of the said municipal council approving of the proposed extension to the lands of other interested parties shall be first passed after a hearing or notice as hereinbefore provided. 46 V. c. 27, s. 6; 50 V. c. 37, s. 3.

7. An occupant not the owner of land, notified in the manner provided by this Act, shall immediately notify the owner thereof, and shall, if he neglects to do so, be liable for all damages suffered by such owner by reason of such neglect. 46 V. c. 27, s. 7.

Sub-section 1 of Section 8 was amended by Ontario Statutes, 1889, Chapter 49, and now reads as follows.:

8.—(1) The clerk shall, after receiving the requisition, forthwith notify the engineer by registered letter, enclosing a copy of the requisition; and, on receipt of the same, the engineer shall notify the clerk, in writing, naming a time at which he will attend; and, on receipt of this notice, the clerk shall file the same with the requisition, and shall forthwith send a copy

Occupant to
notify owner.

Duties of
engineer.

of the notice of the engineer by registered letter to the owner making the requisition, and the engineer shall attend at the time named in said notice, shall examine the premises and, if he deem proper, or if requested by any of the parties, shall hear evidence, and is hereby authorized to examine the parties and their witnesses on oath, and may administer an oath or affirmation as in Courts of Justice, and if he shall find the making, deepening, or widening of the ditch or drain necessary, he shall, within thirty days after the day of meeting named in the requisition, make his award in writing (Form E or to the like effect) specifying clearly the locality, description and course of the ditch or drain, point of commencement and termination of same, the portion of the ditch or drain to be done by the respective parties, and the time within which the work is to be done, the amount of his fees and other charges and by whom to be paid; and he shall have power to adjourn the examination and may require the notification and attendance of other parties whom he deems interested in the ditch or drain, such other parties to have at least four clear days notice of time and place of attendance. 46 V. c. 27, s. 8; 50 V. c. 37, s. 4.

(2) In no case shall the engineer include or assess the lands lying more than fifty rods above the point of commencement of the ditch or drain upon the lands mentioned in the notice (Form B) provided for by section 5 of this Act, nor the lands on either side of the ditch or drain which lie more than fifty rods from the drain, and only so much within such fifty rods as having due regard to the nature of the locality and of the soil and the lay of the land and its distance back from the ditch or drain as will be benefited by the ditch or drain, and then only according to and in proportion to the benefit which it will receive by such construction. 50 V. c. 37, s. 5.

Ont. Stat.
1888.

(3) The engineer may by his award direct that any portion of such ditch or drain may be constructed as a covered drain, and shall determine the size and capacity of the proposed covered portion, and the nature and quality of the material to be used therein, but no such direction shall be given by the engineer, if the covering of such portion of the ditch or drain would impede or delay the free flow of the water which the ditch or drain is intended to carry off. 51 V. c. 35.

Engineer may
order opening
of ditch across
land of a per-
son not inter-
ested.

9.—(1) If it appears to the engineer that the owner or occupier of any tract of land is not sufficiently interested in the opening up of the ditch or drain to make him liable to perform any part thereof, and at the same time that it is necessary for the other parties that the ditch or drain should be continued across the tract, he may award the same to be done at the expense of the other parties, and after the award the other parties may open the ditch or drain across the tract at their own expense without being trespassers, but causing no unnecessary damage and replacing any fences opened or removed by them. 46 V. c. 27, s. 9.

(2) If it appears to the engineer that rock-cutting is required to be done, the engineer may get the rock cut or blasted by giving the contract out to public competition by tender or otherwise, instead of requiring each person benefited to do his share of the work. The engineer shall, by his award, determine the sum which shall be paid by each of the persons benefited, which sum, unless forthwith paid, shall be added to the collector's roll, together with seven per cent. added thereto, and the same shall thereupon become a charge against the land of the parties so liable, and shall be collected in the same manner as other municipal taxes. 50 V. c. 37, s. 6.

Rock cutting may be let to contractor.

10. The engineer, shall, within thirty days from the day appointed by him as named in section 8 of this Act, make and file his award, and any plan or profile of said work with the clerk of the municipality named in section 6 of this Act, and the award, plan and profile shall be official documents, and may be given in evidence in any legal proceedings by certified copies as are other official documents, and the clerk of the municipality shall forthwith, upon the filing of the award, notify each of the persons affected thereby by registered letter or personal service of the filing of the same; and the clerk shall keep a book in which he shall record the names of the parties to whom he has sent the notice, the address to which the same was sent, and the date upon which the same was deposited in the post office or personally served. 46 V. c. 27, s. 10; 48 V. c. 47, s. 1; 50 V. c. 37, s. 8.

Award to be filed with Clerk.

11. Any person dissatisfied with the award and affected thereby may, within fifteen clear days from the filing thereof, appeal therefrom to the Judge of the County Court of the county in which the lands, in respect to which the proceedings are initiated, are situate, and the proceedings on the appeal shall be as follows: 46 V. c. 27, s. 11 (1); 48 V. c. 47, s. 2.

Appeal.

1. The appellant shall serve upon the clerk of the municipality with whom the award is filed a notice in writing of his intention to appeal therefrom, shortly setting forth the grounds of appeal. 46 V. c. 27, s. 11 (1).

Notice to clerk of municipality.

2. The clerk of said municipality shall, after the expiration of the time for appeal, forward by registered letter or deliver a copy of the notice or notices of appeal, if there be more than one appeal, and a certified copy of the award, to the clerk of the Division Court of the division in which the land of the owner filing the requisition as provided in section 6 of this Act is situate and the Division Court clerk shall immediately notify the Judge of the appeal, whereupon the Judge shall appoint a time for the hearing thereof, and, if he think fit, order such sum of money to be paid by the appellant or appellants to the said clerk as will be a sufficient indemnity against costs of the appeal. 46 V. c. 27, s. 11 (2); 49 V. c. 44, s. 2.

Notice to clerk of Division Court and Judge.

By Chapter 68 Ontario Statutes, 1890.

Rev. Stat.,
c. 220, s. 11,
amended.

1. Section 11 of *The Ditches and Watercourses Act* is amended by inserting the following as subsection (2a).

Inspection of
premises by
an engineer.

(2a) The appellant may have the lands and premises inspected by another engineer, who for such purpose may enter upon such lands and premises.

Notice of
hearing.

3. The Judge shall order the time and place for hearing of appeals, and communicate the same to the clerk of the Division Court, who shall notify the engineer and all parties interested, in the manner herein provided for the service of other notices under this Act.

Ont. Stat.
1888, c. 35.

(a) The place for hearing such appeals shall be in the division of the Division Court in which the lands, in respect to which the original proceedings are initiated, are situated. This provision shall apply to appeals now pending, as well as to those that may be entered hereafter, and in case of pending appeals they shall be transferred to the proper Division Court, and shall not lapse or be otherwise affected by the repeal of said sub-section (a).
51 Vic. c. 35.

Place for hear-
ing appeals.

Powers of
Judge.

4. The Judge shall hear and determine the appeal or appeals, and set aside, alter or affirm the award, correcting any error therein, and he may examine parties and witnesses on oath and, if he so pleases, inspect the premises, requiring the attendance with him of the engineer, and may order payment of costs by the parties, or any of them, and fix the amount of such costs.
46 V. c. 27, s. 11 (4).

Time within
which appeal
to be heard.

5. It shall be the duty of the Judge to hear and determine the appeal within one month after receiving notice thereof as provided by this section, but his neglect or omission so to do shall not render invalid the hearing or determining of the appeal after the lapse of that time; provided always that the Judge may, if in his opinion it will be more convenient for the parties concerned, fix as the time and place for hearing the appeal a sitting of the Division Court of the division in which the land of the person giving the notice of appeal is situate, notwithstanding the time so fixed may be more than one month after the receiving of the notice, and the appeal may be heard either before or after the regular sitting of the Court. 48 V. c. 47, s. 3; 49 V. c. 44, s. 1.

Award as
altered and
confirmed to
be enforced as
original
award.

6. The award as so altered or confirmed shall be certified by the clerk of the Division Court to the clerk of the municipality, together with the costs, if any, allowed and by whom to be paid, and the award shall be enforced as the award of the engineer, and the time for the completion of the work thereunder shall be computed from the date of such judgment in appeal. 46 V. c. 27, s. 11 (5).

12. The clerk of the Division Court receiving the notice of appeal may issue under the seal of the Court, subpoenas to witnesses, and the bailiff may serve the same; which subpoenas shall be in the form, as nearly as may be, of those used in Division Courts; and non-attendance or disobedience to a subpoena may be punished in the same manner as in a case in a Division Court. 49 V. c. 44, s. 3.

Compelling attendance of witnesses.

13. It shall be the duty of the municipality, through the treasurer thereof, to pay the contractor for the work as soon as done to the satisfaction and upon the certificate of the engineer, pending the subsequent collection thereof as aforesaid. 50 V. c. 37, s. 7.

Payment to contractor.

14. The municipality shall, at the expiration of the time for appeal or after appeal, as the case may be, pay to the engineer his fees, and also pay to the person declared to be entitled to the same, any fees or costs awarded or adjudged to him and shall, unless the same be forthwith repaid by the person awarded or adjudged to pay the same, place the amount upon the collector's roll as a charge against the lands of the person awarded or adjudged to pay the same, and the same shall thereupon become a charge upon such lands, and shall be collected as ordinary municipal taxes. 46 V. c. 27, s. 12.

Payment of fees.

15. The engineer shall, at the expiration of the time limited by the award for the completion of the work, inspect the ditch or drain, if required in writing so to do by any of the parties interested, and if he finds the work or any portion thereof not completed in accordance with the award, he may let the same, in sections, as apportioned in the award, to the lowest bidder therefor, taking such security for the performance thereof within the time to be limited, as he may deem necessary, but no such letting shall take place till after four clear days' notice in writing of the intended letting has been posted in at least three conspicuous places in the neighbourhood of the work, and notice thereof is sent by registered letter to such parties interested in said award as are non-resident in said municipality; but if the engineer is satisfied of the *bona fides* of the person doing the work, and there is good reason for the non-completion thereof, he may, in his discretion, extend such time. 46 V. c. 27, s. 13.

Engineer to inspect work on request at expiration of time limited, and may re-let same.

The following amendment was made to this Section by Ontario Statutes, 1889, Chapter 49, Section 3.

3. Section 15 of the said Act is amended by adding thereto the following subsection :—

(2) The engineer may let the work, by the award directed to be done, a second time or oftener if it becomes necessary in order to secure its performance and completion.

Inspection
work by en-
gineer on com-
pletion.

16. The engineer shall upon receipt of notice in writing of the final completion of the work mentioned in the preceding section inspect the same within one week thereafter, and, if approved of and accepted by him, certify in writing the fact to the clerk of the municipality, giving a separate certificate for each portion or section of work let and completed (Form F or to the like effect), and stating the name in each certificate of the person who did the work, as well as the amount he is entitled to receive therefor, and also such extra fees as the engineer is entitled to, by reason of such letting and subsequent inspection, and by whom the same are to be paid. 46 V. c. 27, s. 14.

Penalty for
violation of
ss. 15 and 16.

17. Any engineer who wilfully neglects to make the inspection required by either of the preceding two sections for thirty days after he has received the written notice mentioned therein, shall be liable to a fine of not less than \$5 nor more than \$10, to be recovered with costs on complaint made before one of Her Majesty's Justices of the Peace having jurisdiction in the matter, and in default of payment the same shall be recoverable by distress, and every such fine shall be paid over to the treasurer of the municipality in which the offence arose. 49 V. c. 44, s. 4.

Payment of
amount due
to engineer
and other per-
sons.

18. The council shall, at their meeting next after the filing of the certificate or certificates mentioned in section 16, pay to the engineer his additional fees therein mentioned, and forthwith thereafter may pay to any person the amount which, according to such certificate, he is entitled to receive for any work mentioned in section 16, and thereafter the council shall, unless the amount or amounts named in the certificate or certificates, including such additional fees, is forthwith paid by the respective parties declared in the certificate or certificates to be liable to pay the same, cause the amount or amounts and fees to be added to the collector's roll, together with seven per cent. added thereto, and the same shall thereupon become a charge against the lands of the party or parties so liable, and shall be collected in the same manner as other municipal taxes, and when collected shall be paid over to any person entitled thereto. 47 V. c. 43, s. 2; 50 V. c. 37, s. 9.

*The following amendment was made to this Section in 1889,
by Chapter 49, Section 4.*

Rev. Stat., c.
220, s. 18,
amended.

4. Section 18 of the said Act is amended by adding thereto the following sub-section :—

(4). To remove doubts and to prevent delays and avoid expense it is declared that no action, suit or proceeding shall lie or be had for a mandamus or other order of the High,

Court to enforce or compel the performance or completion of the work by the award or certificate of the engineer apportioned or directed to be done against the person by the award or certificate directed to do the work, but the performance of the work shall be secured and the payment therefor enforced and collected in the manner provided for by this Act. This section shall not apply to or affect pending suits, actions or proceedings.

19.—(1) Notices under the provisions of this Act shall be served personally, or by leaving the same at the place of abode of the owner or occupant, with a grown-up person residing thereat, and in case of non-residents, then upon the agent of the owner, or by registered letter addressed to the owner at the post office nearest to his last known place of abode. 46 V. c. 27, s. 16.

Service of notices.

(2) A "non-resident" within the meaning of this section shall include a person who does not reside within the municipality in which the lands which he owns are situate and in respect of which proceedings are taken or to be taken under the provisions of this Act; and where the place of abode of a non-resident is not known, notices under the provisions of this Act requiring to be served on such non-resident may be served in such manner as the Judge of the County Court may direct. 48 V. c. 47, s. 4.

Interpretation "non-resident."

Service of notice.

20. Every municipal corporation shall have, and exercise all the rights and privileges of this Act, and may be made parties to the agreement or award, and shall be considered as owner of the highway for the purposes of this Act, and shall in all respects be in the same position as an individual owner. 46 V. c. 27, s. 17.

Municipal corporations to have same rights as persons.

21.—(1) In any case where an open ditch or drain has been or may be constructed under the provisions of this Act, any person through whose lands such ditch or drain has been opened, may, with the consent of the engineer of the municipality, convert so much of such ditch or drain as runs through the lands of such person into a covered drain.

Power as to covering drains.

(2) The engineer, before giving his consent, shall examine the portion of the ditch or drain which is proposed to be covered, and shall determine the size and capacity of the proposed covered portion of the drain or ditch, and the nature and quality of material to be used therein, but no such consent shall be given by the engineer, if the covering of such portion of the ditch or drain would impede or delay the free flow of the water which the ditch or drain is intended to carry off. 50 V. c. 37, s. 10.

If consent
given award to
be filed.

22. The engineer shall file with the clerk of the municipality (if such consent be given) an award setting forth the particulars in accordance with the provisions of this Act, and the award shall be subject to appeal. 50 V. c. 37, s. 11.

Notice to en-
gineer.

23. The person making the application for the covering of the ditch or drain, may notify the engineer to inspect the ditch or drain in the first place, and shall also notify the owners interested whose lands are situate above his own of the time when the engineer will examine the drain, and shall also notify the engineer when the work is completed, and it shall not be necessary for such person to take the proceedings provided in sections 5 and 6 of this Act, and such person shall be liable for the fees and expenses of the engineer, and if not paid by such person to the engineer, the fees and expenses shall be collected, as provided for in this Act. 50 V. c. 37, s. 12.

Payment of
fees and
expenses.

Flow of water
not to be im-
peded.

24. Such person (and the subsequent owners) shall maintain and keep the covered portion of the drain of such sufficient size and capacity as not to impede or delay the free flow of the water above the covered portion or brought thereto by said drain; and any damages occasioned by the neglect or failure to so maintain and keep such portion of the size and capacity aforesaid shall be payable by the owner of the land upon which the insufficient or imperfect portion of the drain is situate. 50 V. c. 37, s. 13.

Persons de-
siring to use
ditch or drain
after construc-
tion.

25. In case any person during or after the construction of the ditch or drain herein provided for, desires to avail himself of such ditch or drain for the purpose of draining other lands than those contemplated by the original proceedings, he may avail himself of the provisions of this Act, as if he were or had been a party to such original proceedings; but no person shall make use of the ditch or drain constructed under the provisions of this Act, unless under agreement or award pursuant to its provisions as to the use of lands of others, as to the enlargement, if such be necessary, of the original ditch or drain so as to contain additional water therein, and as to the time for the completion of such enlargement. 46 V. c. 27, s. 18; 48 V. c. 47, s. 5.

Drain may be
continued into
adjoining
municipali-
ties.

26. Notwithstanding any of the lands through which the drain is required, are situate in a municipality adjoining the one in which the original proceedings were commenced, the engineer shall have full power and authority to continue the ditch or drain in and through so much of the lands in the adjoining municipality as may be found necessary, and all proceedings authorized under the provisions of this Act are to be had, taken, and carried on in the municipality where commenced; but in such case the clerk of the municipality shall forward to the clerk of the adjoining municipality a certified

copy of the award, as made, confirmed, or altered, and shall also forward to him a certified copy of every certificate of the engineer which affects or relates to the lands in the adjoining municipality, and to the owners thereof; and the municipal council shall, unless the amounts are forthwith paid by the parties declared by the certificate liable to pay the same, have and take all proceedings for the collection of the sums so certified to be paid, as though all the proceedings had been taken and carried on in the adjoining municipality. 46 V. c. 27, s. 19.

27. The fees to which the engineer shall be entitled under this Act shall be such as shall be fixed by by-law or resolution of the council, and in case no such fees are fixed by the council the same shall be his legally authorized fees for similar work, or such less amount as may be agreed upon, and the fees to witnesses and for the service of papers authorized by the Division Court clerk shall be the same as those allowed to witnesses, and for similar services in the Division Court. 46 V. c. 27, s. 20. Scale of fees.

28. This Act shall apply to deepening or widening a ditch or drain. 50 V. c. 37, s. 15. Application of Act.

FORM A.

(Section 5.)

Township of

Whereas it is found necessary that a ditch or drain should be made (deepened, or widened) on lot No. _____ in the _____ concession of the Township of _____ and it is necessary to continue the same through lot number _____ in the _____ concession of the Township of _____ (if more than one lot describe them).

Therefore we _____ owners of the land hereinafter described, do agree each with the other as follows :

That I, _____ owner of _____ (describe lot) agree that I will make (deepen or widen) and maintain that part of such ditch or drain commencing at stake number one planted (describing the locality of said stake) and thence to stake number two, and that said portion of said ditch or drain shall be (describing the depth and width) and I _____ owner of (giving the name of each person, the land owned by him, the portion of work assigned, its depth, width, etc.), and each of us agrees to have our said respective portions completed on or before the _____ day of _____ A.D. 18 _____.

Witness.

Dated,

} (Signed by the parties.)

46 V. c. 27, Form A.

FORM B.

(Sections 5, 8.)

Township of

To

Sir,—As the owner of lot number _____ in the
 concession of the Township of _____
 I require to construct a ditch or drain through said lot, and find it neces-
 sary to continue the same through your land, being lot number _____ in
 the _____ concession of the Township of _____ under *The*
Ditches and Watercourses Act and request that you will attend at
 _____ on _____ the _____ day
 of _____ 18 _____ at the hour of _____ o'clock, in the
 noon, with the object of agreeing, if possible, upon the
 respective portion of such ditch or drain to be made, deepened or widened
 by the several parties interested.

Dated this

day of

18

Yours, etc.

46 V. c. 27, *Form B.*

FORM C.

(Sections 5, 6.)

To

Clerk of the Municipality of the

of

Sir,—As the owner of lot number _____ in the _____ conces-
 sion of the Township of _____ I require to construct a ditch or drain
 through the said lot and it will be necessary to continue the ditch or drain
 through the following lands on lot number _____ in the _____
 concession of the Township of _____ owned by _____ Lot
 number _____ in the _____ concession of the Township of _____
 owned by _____ (*describe each lot through which the ditch*
or drain must be continued, and the name of the owner of each parcel), and
 having failed to agree upon the respective portions to be made by each.

I request that the engineer appointed by the Municipality be asked
 to appoint a day on which he will attend at the locality of the said pro-
 posed ditch or drain, and examine the premises, hear the parties and their
 witnesses, and make his award under the provisions of "*The Ditches and*
Watercourses Act."

Dated.

(Signed by Party or Parties.),

52 Vic. c. 49.

FORM D.

(Section 6.)

To

Take notice that the engineer appointed by the Municipality for the purpose will attend at lot number _____ in the _____ concession of _____ on the _____ day of _____ A. D. 18 _____ at the hour of _____ o'clock in the _____ noon, to examine the site of the proposed ditch or drain and make his award therein; and you as the owner of (*describe the lot*) which may be affected thereby, are requested to attend (with any witnesses you may desire to have heard) at said time and place.

Dated

Yours, &c.

46 V. c. 27, Form D.

FORM E.

(Section 8.)

I _____ the engineer appointed by the Municipality of the Township of _____ in the County of _____ under the provisions of *The Ditches and Watercourses Act*, having by the requisition of _____ owner (or owners) of lot number _____ in the _____ concession of the Township of _____ filed with the Clerk of the said Municipality, representing that he (or they) required a ditch or drain on said lot, and that it would be necessary to continue the ditch or drain through the following lands on lot number _____ in the _____ concession of the Township of _____ owned by _____ etc., did attend at the time and place named in said notice, and having examined the locality of said ditch or drain, and heard the parties and their witnesses (*if any*), find and award as follows:

That _____ lot number _____ in the _____ concession of the Township of _____ would be benefited by, and requires a ditch or drain (*or the deepening or widening of a ditch or drain, if already made*), to enable the proper cultivation or use of the said land, and I find that said ditch or drain will require to be extended across the land of _____ being lot number _____ in the _____ concession of _____ and across the land of _____ being _____ lot number _____ in the _____ concession of the Township of _____ (*and so on, giving the name of each owner and lot to termination of said ditch or drain*), and I award the making of said ditch or drain (*or the deepening or widening as the case may be*), as follows:—..... shall commence at stake number one planted (*describe with reasonable certainty where planted*), and shall open up and maintain a ditch or drain (*describe width and depth*), to stake number two planted (*describe where planted, distance and direction from first stake*), and said portion shall be made and completed within (*name time within which to be completed*). That _____ shall commence at stake number two, above described, and shall open up and maintain a ditch or drain (*describe width and depth*) to stake number three planted (*describe where planted, distance and direction from stake number two*) and said portion shall be made and completed within (*name time, etc.*) That _____ shall, etc., (*and so on to the termination of said ditch or drain*).

That my costs attendant upon the examination, and making of this award are _____ and shall be borne and paid as follows, (*give the name of the persons to be charged therewith, and the portion to be borne by each*).

Dated this _____
Witness.

day of

A. D. 18

(Signature of Engineer.)

46 V. c. 27, Form E.

FORM F.

(Section 16.)

To
 Clerk of the Township of
 I hereby certify that
 certain work which under my award dated the
 A. D. 18 , one
 adjudged to perform, and which the said
 to do was by me subsequently let to the said
 sum of and the said
 paid the said amount.

has completed
 day of
 was ordered and
 having failed
 for the
 is entitled to be

I further certify that my additional fees are
 said amount and said fees are
 said amount and said fees are chargeable on (*describe property to be charged therewith*) and shall unless forthwith paid be added to the Collectors' Roll (*with interest*) as provided in section 18 of *The Ditches and Watercourses Act*.

and that
 and that

Dated this

day of

A. D. 18

Engineer for

46 V. c. 27, Form F.

The following sections were added to "*The Ditches and Watercourses Act*," by chapter 49 of 1889.

When drains
 or ditches do
 not carry off
 the water
 originally in-
 tended, award
 may be recon-
 sidered.

5.—(1) In any case where a drain or ditch has been made and constructed, or where a creek or watercourse has been deepened, widened or extended, or where an under-drain has been made under the provisions of *The Ditches and Watercourses Act* or any previous Act respecting ditches and watercourses, or may hereafter be so made and constructed, and when any such drain, ditch or under-drain, creek or watercourse does not carry off the water it was originally designed to carry off, any one of the owners interested in the original construction of such ditch, drain or under-drain, or in the deepening, widening or extending of any such creek or watercourse, or who may have acquired the ownership of the lands, the owner of which at the time of the making and construction of such works was liable for the cost of the same, may take proceedings for the reconsideration of the award or agreement as the case may be, and in order to do so, such owner shall take the same proceedings and in the same form and manner as is done in respect to the original opening and making of such aforementioned work, except as hereinafter provided.

Council may
 obtain report
 from engineer.

(2) Before any of the aforesaid proceedings are taken, such owner shall upon notice in writing to all parties interested make an application to the council of the municipality in which the lands are situate; upon hearing the complaint of

said owner, the council, if satisfied that such owner has reasonable grounds for complaint, may order the engineer to make an examination of such ditch, drain, under-drain, creek or watercourse, and to make a report to the head of the council, not later than thirty days from such meeting of council.

(3) If the report of the engineer certifies that the complaint is well founded the applicant may go on and take proceedings, as provided in sub-section 1 of this section, and the costs incurred shall be apportioned under the award; if the engineer reports that there is no cause of complaint, then the applicant shall pay the whole costs incurred, and if not forthwith paid by him, it shall be entered in the collector's roll in accordance with sections 14 and 18 of *The Ditches and Watercourses Act*.

If report is favourable applicant may proceed.

Costs.

(4) No proceedings shall be taken under the provisions of this section before the expiration of three years after the completion of such work in the first instance.

When proceeding may be taken.

6. In order to remove all doubts as to the maintaining and keeping in repair of any ditch or drain, whether covered or open, or of any creek or watercourse that has been deepened or widened, under the provisions of *The Ditches and Watercourses Act* before the year 1883, it is hereby declared that the cost of maintaining and keeping in repair any such ditch or drain, whether covered or open, or of any such creek or watercourse shall be borne by the respective owners, in such proportion as is provided in the original or any amending award; and the manner of enforcing such repairing and maintaining shall be as set forth in sub-sections 4, 5, 6, 7, 8 and 9, of section 4 of *The Ditches and Watercourses Act*.

Costs of maintenance and repairs.

7. In all cases when in this Act any particular number of days expressed to be "clear days" is prescribed the same shall be exclusive of both the first and last day.

"Clear days" meaning of.

8. This Act shall be read with and form part of *The Act respecting Ditches and Watercourses*.

This Act to be read with Rev. Stat. c. 220.

ONTARIO STATUTES, 1890.

CHAPTER 67.

An Act respecting the Expenses of County Court Judges under The Ditches and Watercourses Act and The Line Fences Act.

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:—

County judge to be entitled to expenses when acting under Rev. Stat. c. 220 or c. 219.

Judge to fix amount of expenses and by whom payable in order.

Municipality to pay expenses and collect amount.

1. A county court judge shall be entitled to be paid the actual expenses incurred by him in case he inspects the premises in respect of which appeals are made to him under *The Ditches and Watercourses Act* or *The Line Fences Act*.

2. He shall in the order setting aside, altering or affirming the award, fix the amount of such expenses and the person by whom the same shall be paid.

3. The judge shall be paid the amount so fixed by him by the municipality in the same manner as the engineer's fees are paid in respect of *The Ditches and Watercourses Act*, and as the fence viewer's fees are paid in respect of *The Line Fences Act*, and such municipality shall collect the same as provided in the said Acts respectively.

CHAPTER 69.

An Act to amend The Ditches and Watercourses Act as applied to Railways.

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:—

Railway companies to be deemed owners of lands within Rev. Stat. c. 220.

1. Every railway company owning or operating a railway in the Province of Ontario shall for the purposes of this Act be considered an owner of lands under the provisions of *The Ditches and Watercourses Act*.

2. All notices which require to be served upon any such railway company under the provisions of this Act, shall be served upon the manager; and any duties that such manager performs, or causes to be performed by any engineer, assistant engineer, or any person acting under his instructions, shall be deemed to be performed by the railway company.

Notices to be served on manager of company.

3.—(1) Every existing ditch, drain, creek, or watercourse, situate on the property of any such railway company, and running along or under the railway, may be deepened, widened or extended, and any existing bridge or culvert in the road-bed of such railway may also be deepened or widened, or a new bridge or culvert may be constructed, when it is found and reported upon by the engineer of the municipality, or agreed and reported upon as hereinafter provided, that such ditch, drain, creek or watercourse, or the widening, deepening or construction of any such bridge or culvert is necessary as an outlet for any creek or watercourse, or any ditch or drain that has been or may be constructed under the provisions of the said Act or of any previous Act, and that such can be done without detriment to the safety of the railway.

Ditches, drains, creeks, and water-courses on lands of railways.

(2) The ditch or drain which may be constructed through the lands of the railway may be either covered or open as the said engineer may report.

(3) The aforementioned work shall be done in such a manner as not to injure the bridges, culverts, or road-beds of the railway or in any way to interfere with the traffic thereof.

(4) In any case when any such ditch or drain will require to be carried through any cutting of the railway, the consent of the railway company shall be first obtained.

4. The said engineer when he reports that any ditch, drain creek or watercourse, running along or under any railway, is required to be used for the purposes aforesaid, and also, that any bridge or culvert is required to be enlarged by the deepening or widening of the same, or that a new bridge or culvert is required, shall file with such report a plan or profile of such drain, creek or watercourse, and also a plan or profile of the enlargement of any bridge or culvert, but only to shew the extent, depth and width of the required enlargement of such bridge or culvert, or of any new bridge or culvert (as the case may be) together with a statement of the estimated cost of the work to be done upon the lands of the railway, including the cost of any excavation required to be made in enlarging or constructing any bridge or culvert; and such report shall be filed with the clerk of the municipality within the time specified in section 10 of the said Act.

Plans to be filed with report of engineer.

5.—(1) When so found and reported, the clerk of the municipality shall within six days after the filing of the report, send to the manager of the railway company, by registered letter a copy of so much of the report as relates to the work upon

Proceedings upon the report of municipality's engineer.

the lands of the railway company, together with a copy of the plan or profile of said work with a statement of the estimated cost of such work as made by the said engineer.

(2) The manager of the railway or some one acting in his behalf, shall within fifteen days after receiving such report forward to the clerk of the municipality, by registered letter, a notice stating whether he approves or disapproves of said report; if he approves of said report his letter of approval shall be filed in the clerk's office with the report of the engineer, and said report shall be binding upon all parties concerned, and who are liable for the performance of the work, or the cost of the same, upon the lands of the railway company, and shall not be subject to appeal except as hereinafter provided.

(3) If the manager of the railway company objects to the said report in whole or in part, he shall in such notice state his objections, and shall also fix a day not later than twenty nor earlier than fifteen days from the mailing of such notice, upon which the engineer of the railway, or some one acting on his behalf, shall meet the engineer of the municipality at the place where the work is proposed to be done for the purpose of arriving at an amicable agreement as to the work objected to by the manager of the railway or the cost thereof.

(4) The clerk of the municipality shall within four days after receiving such notice, notify the engineer of the municipality, if the manager of the railway has approved of his report, and if he has not approved of his report, he shall notify said engineer to attend at the place of the proposed work upon the day fixed by the manager of the railway.

(5) If the engineer of the railway company and the engineer of the municipality agree upon any portion or the whole of said work which may have been objected to by the manager of the railway, then such report shall be amended as may be agreed upon, and shall be in duplicate and signed by both engineers, one copy to be retained by the engineer of the railway, and one to be filed with the clerk of the municipality within ten days after arriving at such agreement; and said report shall be binding upon all parties concerned as set forth in sub-section 2 of this section.

(6) If the engineer of the railway company and the engineer of the municipality fail to agree upon the matters in dispute, as mentioned in sub-section 3 of this section, then in such case said matters of dispute shall be referred to the decision of an engineer to be appointed by the Commissioner of Public Works of the Province of Ontario, whose report and decision shall be final and binding upon all parties interested, and not subject to appeal as far as the work upon the lands of the railway is affected, except as hereinafter provided.

(7) When said disagreement takes place the engineer of the municipality or of the railway company shall within four days thereafter, by registered letter, request the said Commissioner to appoint an engineer as provided for in the previous sub-section, and shall in such letter give the name and post office address of the railway engineer, and also his own post office address, and state the locality where the proposed work is to be done.

(8) The Commissioner of Public Works shall within six days after receiving said request appoint a competent engineer to settle the matters in dispute; the engineer so appointed shall within six days after his appointment, notify by registered letter, the engineer of the railway company, and also the engineer of the municipality of the day on which he will attend at the place of the proposed work, which day shall not be earlier than ten, nor later than twenty days from the date of such notification, and said engineers shall attend at the time and place named in such notice, and shall give all necessary information to the engineer appointed by the Commissioner of Public Works, and said engineer shall carefully enquire and examine into all the objections made, and differences of opinion existing between the engineer of the railway company and the engineer of the municipality in reference to said proposed work upon the lands of the railway company and the cost thereof.

(9) The said engineer shall within ten days after such meeting, make out a report in duplicate, one to be sent by registered letter to the engineer of the railway company, and one copy to be sent by registered letter to the engineer of the municipality which copy shall be filed with the clerk of the municipality, and such report shall be final and binding as set forth in sub-section 6 of this section.

(10) The engineer of the municipality in making his award (which shall be made when a final agreement has been concluded as set forth in the next sub-section) shall in respect of the work to be performed upon the lands of the railway company, apportion such work and the estimated costs of the same upon the several owners interested in the construction of such work in proportion to the benefit to be derived.

(11) The engineer of the municipality shall within 30 days from the date of approval by the manager of the railway, as provided in sub-section 2 of this section, or in the event of the refusal of such approval, then from the date of the agreement if made by the engineers as provided for in sub-section 5 of this section, or in the event of the engineers failing to agree, then from the date of the report as made by the engineer as provided for in sub-section 6 of this section, make his award and file the same with the clerk of the municipality, and said award shall embrace the lands of the owners, which may be liable for the construction of any such ditch or drain, or the widening or deepening of any creek or watercourse, or for the enlarging or construction of any bridge or culvert.

Rev. Stat.
c. 220.

(12) Any interested owner may appeal against the award of said engineer in the same manner and form as is provided in *The Ditches and Watercourses Act*, and the amendments thereto, but such appeal shall as in respect to the work upon the lands of the railway company, be confined to his right of being made liable for any portion of such work, and the proportion or cost of the same, but such appeal shall not affect the railway company.

Notice of com-
mencement of
work and
mode of com-
pleting same.

6.—(1) The clerk of the municipality shall within four days after expiration of the time for appeal if no appeal has been made, or if an appeal has been made, within four days after the final decision upon such appeal, send to the manager of the railway company by registered letter, a notice stating the place and day upon which the work will be commenced and proceeded with, which day shall not be sooner than twenty, nor later than thirty days from the day of notice, and in such letter of notice he shall ask the manager of the railway which of the following modes of doing the work he will select on behalf of the railway company:

- (a) First, the railway company to do the work by their own employees for such amount as may have been finally agreed upon and made part of the report and award; or
- (b) Second, that the work may be performed by the party or parties who are liable for the cost of performance of said work, and done under the supervision of the railway engineer, or some one acting in his behalf, and subject to the provisions of section 3.

(2) The manager of the railway, or some one acting in his behalf, shall within ten days after receiving the said notice, notify the clerk of the municipality, by registered letter, which of the said modes of doing the work he will select on behalf of the railway company, and if he selects to do the work under the provisions of clause (b) of the preceding subsection, upon the receipt of such notice the clerk of the municipality shall forthwith notify the parties who are liable to perform the work, of the day that has been fixed for the commencement of the said work, by the manager of the railway.

(3) If the work is completed under the provisions of clauses (a) or (b) of sub-section (1) of this section, then, in either of such cases, the engineer of the railway company shall send to the clerk of the municipality, by registered letter, a certificate, certifying that the work has been completed in accordance with the copy of the plans and profile as may have been finally agreed upon and furnished to the railway company.

(4) When the work is completed under the provisions of clause (a) of sub-section (1) of this section, the council of the municipality shall at their first meeting, after the clerk has received the certificate mentioned in the preceding sub-section, order the payment of the cost of the work and the same shall be paid by the municipality in accordance with the provisions of section 13 of said *Ditches and Watercourses Act* to the railway or to the party authorized by the railway company to receive the same, and if not forthwith paid by the party or parties who are liable for the same under the provisions of the award, it shall be entered upon the collector's roll as provided in sections 14 and 18 of *The Ditches and Watercourses Act*.

Rev. Stat. c.
220.

7. In any case where the engineer of the municipality reports that an existing bridge or culvert in the road-bed of any railway has to be enlarged by the deepening or widening of the same, or that a new bridge or culvert is required, and that the same has been agreed to and reported either as provided in sub-section 2 of section 5, or as in sub-section 5 of said section 5, or as provided in sub-section 6 of section 5 of this Act, then all such deepening or widening or construction shall be performed by the railway company and by their employees and at the cost of the municipality in the first instance, said cost to be collected from, and paid for by the owners who will be liable for the same, as provided for in the said sections 14 and 18 of *The Ditches and Watercourses Act*.

Railway com-
pany to en-
large bridges
and culverts.

Rev. Stat. c.
220.

8. The railway company shall not be liable for the cost of any work performed upon the lands, or under the road-beds of any railway, under the provisions of this Act.

Company not
liable for the
cost of work.

9. If any railway company neglects or refuses to proceed with the work within the time specified in the report for the completion of the same, then in such case the party or parties who are liable for the payment of the costs of the work under the provisions of the report or award, as may have finally been decided upon, may proceed with and complete said work upon the lands of the railway company, except the enlarging of a bridge or culvert and the excavation in connection therewith.

Parties liable
for cost may
perform work
if Company
refuses.

10. If the railway company neglect or refuse to enlarge or construct a bridge or culvert within the time specified in the award or report for the completion of the same, then in such case the railway company shall be held liable for all damages sustained by the party or parties, embraced in the report or award, on account of the non-enlargement of such bridge or culvert; and such damages shall accrue from the date mentioned in the report for the completion of the work.

Company
liable for
neglect to en-
large bridges
or culverts.

11. This Act may be read and cited as *The Railway Clauses of the Ditches and Watercourses Act* and shall be read as part of said Act.

Act incor-
porated with
*Ditches and
Watercourses
Act*.

CROWN LANDS DEPARTMENT, ONTARIO.

GENERAL INSTRUCTIONS AND OBSERVATIONS

Upon the Location and construction of Government Colonization Roads in the Province of Ontario for the guidance of Inspectors and Overseers.

In selecting a location for a road through surveyed townships the original road allowances should be followed as far as practicable, unless it is apparent that decided advantages would be gained to the community by abandoning their use; and it is also desirable that the courses of roads agree with those of the township lines, so as to injure farms as little as possible, while generally, where a location is required and original lines have to be abandoned, as direct a course should be taken between the objective points as can be secured, to agree with the general principles of road-making.

It is desirable, as far as possible, to avoid leading a road to any high summit involving a steep grade; if the same cannot be continued upon for, at any rate, a very considerable distance; it will be found generally more advisable to keep upon the lower levels, and at the loss perhaps of directness to trace a road about or near the base of such hill or range, for the purpose of maintaining a more level route, and which, though perhaps in some cases more expensive to construct, would, when completed, be found more generally satisfactory. A grade of more than one foot in ten feet should, as far as practicable, be avoided.

Rocky hills and knolls should also be avoided as much as possible, even at the cost of a deviation from an otherwise straight line, as they can seldom be formed into a satisfactory road or portion of one.

The width of Colonization Roads is sixty-six feet, or thirty-three feet upon each side of the centre of the road, and of this full width not more than forty feet are generally required to be chopped and cleared; and where the timber is of low and stunted growth, or where the bush is open, as in pine flats, a less width may be sufficient—and from the space chopped all timber without any then commercial value and not required in connection with the work for bridges, culverts or crossways, should, with the brush, etc., be burnt, removed or otherwise consumed.

Of the space cleared, where ditching is necessary, twenty-two (22) feet, or eleven feet upon each side of the selected centre of road, should be well grubbed, and within this space side ditches should be formed, having a general width of about three feet upon the top, and general depth of about one foot or over, with a good slope upon the outer side and the inner side rounded to the centre of the road, so as to make a crown of about a foot upon the road-bed.

The outside edge of the ditch, when sloped, will thus be about eleven feet from the centre line, but depending upon depth of ditch often a proper slope is given.

All suitable material taken from ditches may generally be distributed over the road-bed, so as to form a crown or water-shed. Where no ditching is required the width grubbed may be only ten or twelve feet.

When a road is formed over oblique or sloping ground, and ditching required upon the upper side only, it is important that this one ditch be well defined, so as to prevent water running over and injuring the road-bed, and in all cases where water is led across the road for its outlet, carefully made culverts of timber or stone, and of ample dimensions, should be introduced.

In low or wet land, where crosswaying is necessary, the timber should be about twelve feet long, not less than eight to ten inches in diameter, and laid upon small longitudinal poles, which will settle into the ground, but will bear the logs.

After the crossway is carefully laid about eight feet of its centre should be roughly adzed and the chips allowed to remain and fill up the spaces between the logs; and when not covered with earth from ditches—which is desirable—as much care as possible should be used in cleaning and clearing spaces at the ends of the crossway timber, in order to protect the wood from fire.

Where possible, instead of crosswaying swamps or low land, ditches should be formed of sufficient size and depth to obtain material with which to make the road, and which can generally be done as cheaply, but care should be given to the elevation of the road well above the high-water or flood-line; and as good drainage is one of the most important elements in road-making, the fullest consideration should at all times be given to securing sufficient off-take or discharge drains to secure the road against damage by flooding or back-water.

Wherever procurable within reasonable distance, cedar should be used for culverts and crossways, but in all cases the best timber available should be introduced, and care should be taken to secure a firm and level foundation.

The general form of a culvert should be square or flatted timber sides, resting upon mud sills, with the latter sunk into the ground till the top of sill is below low-water mark, as, if exposed to the air, they necessarily soon decay.

Mud sills should not be more than five or six feet apart; or about four in each ordinary culvert. The covering may be of flatted timber or planking, as can most readily be procured.

In the construction of culverts care should be taken to so secure all the parts together by framing or treenailing that the relative position of each part may not change.

Where loose stone is plentiful it may sometimes be found as cheap, and therefore more desirable, to use it in forming culverts or drains, and the advantage of using broken stone for such purposes—levelling inequalities in the road service, forming approaches to bridges, culverts, etc.—will be apparent to all, and should be kept in view; in other words the permanency of work is so desirable that stone and earth should be used as far as practicable, and timber as little as possible.

Earth approaches to bridges and culverts should be made full and firm ; generally the earth should be three or four inches above the top of the structure at each end, so that when settlement takes place in the earth-work (which, of course, should not occur in the structure) the level of the bridge or culvert may then be the same as the approaches.

Where, in crossing rivers or streams, bridges of importance are necessary their character with regard to span, height, foundation and design should be carefully considered, and where a clear span or opening of more than about thirty (30) feet is required, or where a truss bridge becomes a necessity the matter should be referred to the Superintendent (or Inspector) of Roads for his opinion and special instructions.

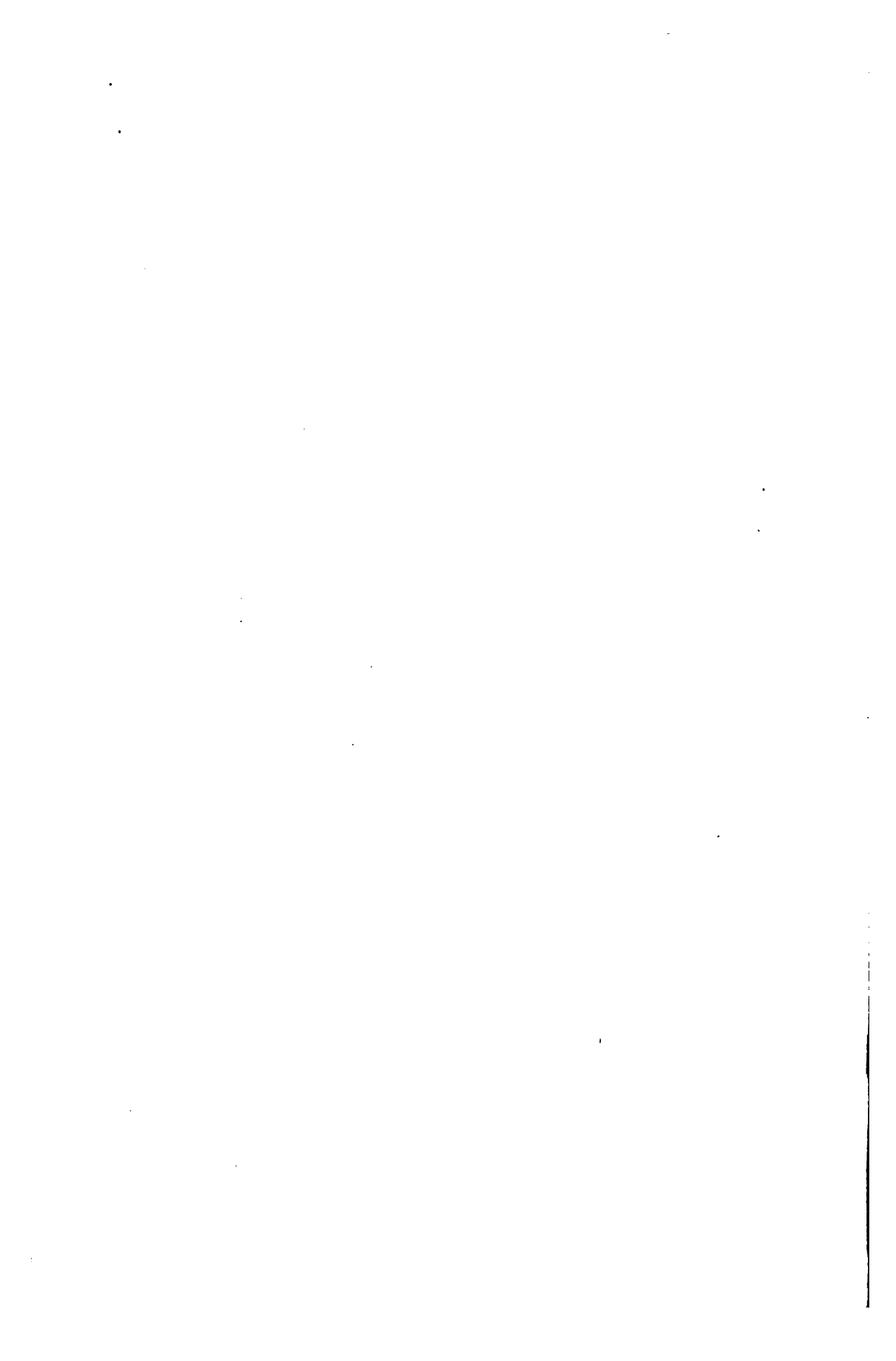
It is important, and should not be overlooked, that all loose timber, brush or inflammable material be removed from about bridges, culverts or other wooden structures, so as to guard as far as may be against their destruction by fire.

HENRY SMITH,
Superintendent Colonization Roads.

TORONTO, May, 1889.

PART V.

MISCELLANEOUS.



REVISED STATUTES OF ONTARIO.

CHAPTER 221.

An Act for the Protection of Game and Fur-bearing
Animals.

*As amended, by Ontario Statutes, 1888, Cap. 36, and 1890,
Cap. 70.*

HER MAJESTY, by and with the advice and consent of the
Legislative Assembly of the Province of Ontario, enacts
as follows:—

1. None of the animals or birds hereinafter mentioned, shall
be hunted, taken or killed, within the periods hereinafter
limited.

1. Deer, elk, moose, reindeer or caribou between the twen-
tieth day of November and the fifteenth day of October; but
the period hereinbefore limited shall not, as to moose, elk,
reindeer or caribou, apply before or until the fifteenth day of
October, 1895, and no moose, elk, reindeer or caribou shall be
hunted, taken or killed between the first day of April, 1888,
and the fifteenth day of October, 1895.

2. Grouse, pheasants, prairie fowl or partridge, between the Grouse, etc.
first day of January and the first day of September;

3. Quail or wild turkeys, between the fifteenth day of Decem- Quail and
ber and the fifteenth day of October; but no wild turkey shall be wild turkeys
hunted, taken or killed before the fifteenth day of October, 1889;

4. Woodcock, between the first day of January and the Woodcock.
fifteenth day of August;

5. Snipe, rail and golden plover, between the first day of Snipe, rail and
January and the first day of September; plover.

6. Swans or geese, between the first day of May and the Swans and
first day of September; geese.

7. Ducks of all kinds, and all other water fowl, between the Ducks and
first day of January and the first day of September; other water
fowl.

8. Hares, between the fifteenth day of March and the first Hares.
day of September. 49 V. c. 45, s. 2, and 51 V. c. 36.

Possession,
how far
lawful.

Exposure for
sale.

Protection of
eggs.

Trapping
forbidden.

Batteries, etc.,
for taking
wild fowl, for-
bidden, and
night hunting
forbidden.

Fur-bearing
animals
protected.

Proviso.

Penalties.

2. No person shall have in his possession, any of the said animals or birds, no matter where procured, or any part or portion of any such animals or birds, during the periods in which they are so protected; provided that they may be exposed for sale for fifteen days, and no longer, after such periods, and may be had in possession for the private use of the owner and his family at any time, but in all cases the proof of the time of killing, taking or purchasing, shall be on the person so in possession. 49 V. c. 45, s. 3.

3. No eggs of any of the birds above mentioned shall be taken, destroyed, or had in possession by any person at any time. 49 V. c. 45, s. 4.

4. None of the said animals or birds, except the animals mentioned in section 6 of this Act, shall be trapped, or taken by means of traps, nets, snares, gins, baited lines, or other similar contrivances; nor shall such traps, nets, snares, gins, baited lines or contrivances, be set for them, or any of them, at any time; and such traps, nets, snares, gins, baited lines, or contrivances, may be destroyed by any person without such person thereby incurring any liability therefor. 49 V. c. 45, s. 5.

5. None of the contrivances for taking or killing the wild fowl, known as swans, geese or ducks, which are described or known as batteries, swivel guns or sunken punts, shall be used at any time, and no wild fowl, known as ducks, or other water fowl, except geese or swans, shall be hunted, taken or killed, between the expiration of the hour next after sunset and the commencement of the hour next before sunrise. 49 V. c. 45, s. 6

6. No beaver, mink, muskrat, sable, martin, otter, or fisher shall be hunted, taken or killed, or had in possession of any person between the first day of May, and the first day of November; nor shall any traps, snares, gins, or other contrivances, be set for them during such period; nor shall any muskrat house be cut, speared, broken or destroyed, at any time; and any such traps, snares, gins, or other contrivances so set, may be destroyed by any person without such person thereby incurring any liability therefor: provided that this section shall not apply to any person destroying any of the said animals in defence or preservation of his property. 49 V. c. 45, s. 7.

7. Offences against this Act shall be punished upon summary conviction on information or complaint before a Justice of the Peace, as follows:

(a) In case of deer, elk, moose, reindeer or caribou, by a fine not exceeding \$50, nor less than \$10, with costs, for each offence;

(b) In case of birds or eggs, by a fine not exceeding \$25 nor less than \$5, with costs, for each bird or egg;

- (c) In case of fur-bearing animals, mentioned in section 6 of this Act, by a fine not exceeding \$25, nor less than \$5, with costs, for each offence;
- (d) In the case of other breaches of this Act, and where no other penalty therefor is by this Act provided, by a fine not exceeding \$25, nor less than \$5, with costs. 49 V. c. 45, s. 8, and 51 V. c. 36.

8. The whole of such fine shall be paid to the prosecutor unless the convicting Justice has reason to believe that the prosecution is in collusion with, and for the purpose of benefiting the accused, in which case the said Justice may order the disposal of the fine as in ordinary cases. 49 V. c. 45, s. 9. Disposition of penalties.

9. In all cases confiscation of game shall follow conviction, and the game so confiscated, shall be given to some charitable institution or purpose, at the discretion of the convicting Justice. 49 V. c. 45, s. 10. Confiscation of game.

10. In order to encourage persons who have heretofore imported or hereafter import different kinds of game, with the desire to breed and preserve the same on their own lands, it is enacted that it shall not be lawful to hunt, shoot, kill or destroy any such game without the consent of the owner of the property wherever the same may be bred. 49 V. c. 45, s. 11. Protection of game preserves.

11. It shall not be lawful for any person to kill or take, any animal protected by this Act, by the use of poison or poisonous substances, nor to expose poison, poisoned bait or other poisoned substances, in any place or locality, where dogs or cattle may have access to the same. 49 V. c. 45, s. 12. Use of poison prohibited.

12.—(1) No person shall at any time hunt, take or kill, any deer, elk, moose, reindeer, caribou, partridge or quail, for the purpose of exporting the same out of Ontario, and in all cases the onus of proving that any such deer, elk, moose, reindeer, caribou, partridge or quail, as aforesaid, so hunted, taken or killed, is not intended to be exported as aforesaid, shall be upon the person hunting, killing or taking the same, or in whose possession or custody the same may be found. Deer, moose, etc., not to be killed for export.

(2) No person shall by himself, his clerk, servant or agent, expose, or keep for sale, or directly or indirectly upon any pretence or any device, sell or barter, or in consideration of the purchase of any other property, give to any other person any quail, hunted, taken or killed in the Province of Ontario, and this sub-section shall continue in force until the fifteenth day of October 1892. Sale of quail prohibited.

(3) Offences against this section, shall be punished by a fine not exceeding \$25, nor less than \$5 for each animal or bird. 49 V. c. 45, s. 13, and 53 V. c. 70.

13. No owner of any hound, or other dog known by the owner to be accustomed to pursue deer, shall permit any such hound, or other dog, to run at large in any locality where deer Hounds not to run at large.

are usually found, during the period, from the fifteenth day of November, to the fifteenth day of October, under a penalty on conviction, of not more than \$25, nor less than \$5 for each offence; any person harbouring or claiming to be the owner of any such hound or dog shall be deemed the owner thereof. 49 V. c. 45, s. 14.

Appointment
of game
inspectors.

14. It shall be lawful for the council of any county, city, town, township, or incorporated village, to appoint an officer who shall be known as the game inspector for such county, city, town, township or incorporated village, and who shall perform such duties in enforcing the provisions of this Act, and be paid such salary, as may be mutually agreed upon. 49 V. c. 45, s. 15.

Duties of in-
spector.
Seizure of
game.

15.—(1) It shall be the duty of every game inspector appointed as aforesaid, forthwith to seize all animals or portions of animals in the possession of any person contrary to the provisions of this Act, and to bring the person in possession of the same before a Justice of the Peace, to answer for such illegal possession.

Prosecutions.

(2) It shall also be the duty of every game inspector, to institute prosecutions against all persons found infringing the provisions of this Act, or any of them, and every inspector may cause to be opened, or may himself open in case of refusal, any bag, parcel, chest, box, trunk, or receptacle in which he has reason to believe that game killed or taken during the close season, or peltries out of season, are hidden.

Search for
game.

(3) Every inspector, if he has reason to suspect, and does suspect that game killed or taken during the close season, or peltries out of season, are contained or kept in any private house, shed, or other building, shall make a deposition in the Form A annexed to this Act, and demand a search warrant to search such store, private house, shed, or other building, and thereupon such Justice of the Peace may issue a search warrant according to Form B. 49 V. c. 45, s. 16.

Deer not
to be hunted
except by per-
sons resident
in Ontario or
Quebec.

16. No person shall at any time prior to the year 1895, hunt, take or kill any deer, unless such person has been actually resident and domiciled within the Province of Ontario or within the Province of Quebec for a period of at least three months next before the said time, and any person offending against this section shall be liable to a fine not exceeding \$20, nor less than \$10, with costs of the prosecution, for each animal so hunted, taken or killed, and in default of immediate payment of said fine and costs shall be liable to be imprisoned in the common gaol of the county or district wherein the offence was committed for a period not exceeding three months: Provided always that this section shall not apply to any person who, being a shareholder of or in an incorporated company, hunts, kills or takes on the lands of such company, any of the animals mentioned in this section: Provided, moreover, that this section shall not apply to any person in any year for which he has obtained from the Commissioners of Crown Lands

a permit to hunt, kill or take any of the animals in this section mentioned, and the Commissioner of Crown Lands is hereby authorized to grant and issue such a permit upon payment therefor of a fee of \$10 for each year during which the same is to be in force, and upon being satisfied that the person applying for the permit may be relied upon to observe and comply with the other provisions of this Act. 51 V. c. 36. ▯

17. No one person shall, during any one year prior to the year 1895 kill or take alive more than five deer; and no two persons hunting together or from one camp or place of rendezvous, or forming or being what is commonly known as a hunting party shall, in any one year prior to the year 1895, kill or take alive more than eight deer; and no three or more persons hunting together or from one camp or place of rendezvous, or forming or being what is commonly known as a hunting party shall, in any one year prior to the year 1895, kill or take alive more than twelve deer, and any person offending against this section shall be liable to a fine not exceeding \$20, nor less than \$5, with costs of the prosecution for each deer beyond or exceeding the number so permitted to be killed or taken as aforesaid, and in default of immediate payment of such fine and costs shall be liable to be imprisoned in the common gaol of the county or district within which the offence was committed for a period not exceeding three months. 51 V. c. 36.

Limit as to number of deer which any one person or several persons hunting together may kill.

18. Where, under this Act any person has been convicted of an offence against any of the provisions of this Act, such person, in default of the immediate payment of any fine or costs imposed upon him or for which he has been adjudged to be liable in respect or because of such offence, shall be liable and may be adjudged to be imprisoned in the common gaol of the county or district in which the offence was committed for a period not exceeding three months. 51 V. c. 36.

Imprisonment in default of fine.

19. On the trial of any complaint, proceeding, matter or question under this Act, the person opposing or defending, or who is charged with any offence against or under any of the provisions of this Act, shall be competent and compellable to give evidence in or with respect to such complaint, proceeding, matter or question. 51 V. c. 36.

Evidence of accused.

20. A conviction or order made in any matter arising under this Act, either originally or on appeal, shall not be quashed for want of form. 51 V. c. 36.

Conviction not to be quashed for want of form.

21. All prosecutions under this Act may be brought and heard before any of Her Majesty's justices of the peace in and for the county and district where the penalty was incurred, or the offence was committed, or wrong done, and in cities, towns and incorporated villages in which there is a police magistrate, before such police magistrate; and save where otherwise provided by this section the procedure shall be governed by *The Act respecting Summary Convictions before Justices of the Peace and Appeals to General Sessions*. 51 V. c. 36.

Before whom prosecutions to be brought.

FORM A.

(Section 15.)

I, _____ undersigned game Inspector for
do hereby declare that I have reason to suspect, and do
suspect, that game killed or taken during the close season, or furs out of
season, etc., etc., (*as the case may be*) are at present held and concealed
(*describe the property, occupant, etc., and the place*).

Wherefore I pray that a warrant may be granted and given to me to
effect the necessary searches (*describe here the property, etc., as above*).

Sworn before me at
this _____

day of
A. D. 18
L. B.
J. P. }

X. Y.
Game Inspector.

49 V. c. 45, Form A.

FORM B.

(Section 15.)

Province of Ontario, }
County of }

To each and every constable of
County of _____

Whereas, _____ Game Inspector for
has this day declared under oath before me, the
undersigned, that he has reason to suspect that (game, or birds killed or
taken during the close season, or furs out of season, etc., *as the case
may be*) are at present held and concealed, (*describe property, occupant,
place, etc.*)

Therefore, you are commanded by these presents in the name of Her
Majesty, to assist the said _____ Game Inspector,
and to diligently help him to make the necessary searches to find the
(*state the birds or game killed or taken during the close season, or furs out of
season, etc.*) which he has reason to suspect and does suspect to be held
and concealed in (*describe the property, etc., as above*) and to deliver, if
need there be, the said birds, etc., (*as the case may be*) to the said
Game Inspector, to be by him brought before me on or before any other
magistrate to be dealt with according to law.

Given under my hand and seal
at _____ County of _____

this _____ day of
A. D. 18

L. S.

L. B.
J. P.

49 V. c. 45, Form B.

REVISED STATUTES OF ONTARIO.

CHAPTER 32.

An Act to regulate the Fisheries of this Province.

SHORT TITLE, s. 1.	CANCELLATION OF LEASES, ETC., s. 91.
APPLICATION OF ACT, s. 2.	RIGHTS AND LIABILITIES OF LESSEES, SS. 20, 21.
INTERPRETATION, s. 3.	RESERVATION FROM LEASE, s. 22.
LEASES AND LICENSES, SS. 4-8.	LEASE OF WATERS IN WHICH INDIANS ALLOWED TO FISH, s. 23.
PENALTY FOR TRESPASS, s. 9.	SETTING APART WATERS FOR PROPAGATION OF FISH, s. 24.
RIGHTS OF PASSAGE, s. 10.	PERMISSION TO OBTAIN FISH, s. 25.
FISHERY OVERSEERS, SS. 11, 12, 14.	PENALTIES, SS. 26-29.
REGULATIONS BY GOVERNOR IN COUNCIL, s. 13.	APPLICATION OF FINES AND PENAL- TIES, s. 30.
GUARDIANS FOR PROTECTION OF FISHERIES, s. 15.	CERTAIN ACTS TO APPLY TO PROSECUTIONS, s. 31.
RETURNS BY LESSEES, s. 16.	REPORTS TO BE LAID BEFORE LEGISLATURE, s. 32.
CONTROL OF FISHING RIGHTS PERTAINING TO GRANTED LANDS MAY BE ASSUMED BY COMMISSIONER, s. 17.	
PERMITS, s. 18.	

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:—

1. This Act may be cited as "*The Ontario Fisheries Act.*" Short title. 48 V. c. 9, s. 1.

2. This Act and its respective provisions apply to all fisheries and rights of fishing in respect of which the Legislature of Ontario has authority to legislate. 48 V. c. 9, s. 2.

3. Where the following words occur in this Act they shall be construed in the manner hereinafter mentioned, unless a contrary intention appears:—

1. "Crown Lands" shall be held to mean and include such ungranted Crown or Public lands or Crown domain as are within and belong to the Province of Ontario, and whether or not any waters flow over or cover the same.

2. "Fish" shall mean and include every kind, variety and description of fish in respect of the catching or killing of which within the Province the Legislature of Ontario has authority to legislate.

3. "Waters" shall be held to mean and include such of the waters of any lake, river, stream or water-course wholly or partly within said Province, as flow over or cover any Crown Lands.

"Commissioner."

4. "Commissioner" shall mean the Commissioner of Crown Lands.

"Fishery Lease."

5. "Fishery Lease" shall be held to include and mean a lease or instrument conferring for a term therein mentioned upon the lessee therein named the right to take and keep, for the purposes of fishing, under and subject to the provisions of this Act and of all regulations made thereunder, the exclusive possession of any Crown Lands therein described, with the exclusive right to fish in any waters flowing over or covering the same at such time and in such manner and with such restrictions and subject to such regulations as may be permitted, regulated or prescribed by any lawful authority in that behalf.

"Fishing License."

6. "Fishing License," shall be held to mean and include a license granting for the time therein mentioned to the licensee therein named, upon payment of the license fee therein stipulated, a right to fish in any waters flowing over or covering ungranted Crown Lands therein described, at such time, in such manner and with such restrictions and subject to such regulations as may be permitted, regulated or prescribed by any lawful authority in that behalf, but no fishing license shall be deemed to be, or be construed to operate as or in the nature of a lease or demise, 48 V. c. 9, s. 3.

Issue of leases and licenses.

4. Subject to the other provisions of this Act, every fishery lease and every fishing license shall be granted and issued by the Commissioner but subject always to such conditions, regulations and restrictions as may from time to time be made, ordered or established in that behalf by the Lieutenant-Governor in Council, and published in the *Ontario Gazette*: Provided, however, that no lease or license shall be granted or issued in respect of or as including any lands or waters where an exclusive right of fishing already exists by law 48 V. c. 9, s. 4.

Proviso.

Leases to be made at annual rental.

5. A fishery lease shall not be granted for a longer period than five years from the date thereof, and shall only be made to the highest bidder of an annual rental therefor after the same shall have been put up to public competition, of which at least one month's notice shall be given in the *Ontario Gazette*, and in such other way as to the Commissioner may seem the most advantageous; provided always that the price offered be at least equal to the upset price fixed by the Commissioner, and that if not sold, the Commissioner may afterwards, by private sale, dispose of the said lease at the upset price, or for a greater sum; and the signature of the Commissioner to the lease shall be evidence in all Courts of a compliance with the provisions of this section. 48 V. c. 9, s. 5.

Proviso.

Forfeiture for non-payment.

6. The rental shall be paid in advance, and a lessee who fails to pay the rental at the date fixed by his fishery lease shall

forfeit all rights thereunder, and the same may be thereupon annulled by the Commissioner of Crown Lands, and may be again put up to sale, but notwithstanding the annulling of the lease, the lessee shall be liable at the suit of Her Majesty for the annual rental and the expenses incurred by the lease being again put up to sale. 48 V. c. 9, s. 6.

7. No lessee or licensee shall have the right to sublet, transfer or assign any right, interest or privilege granted or conferred upon him under the provisions of this Act, without first receiving the written consent of the Commissioner, or some other person authorized to that effect. 48 V. c. 9, s. 7.

Transfer of leases.

8. If in consequence of any incorrectness of survey or other error or cause whatsoever, a fishery lease is found to comprise lands included in a fishery lease of a prior date, the fishery lease last granted shall be void in so far as it interferes with the one previously issued, and the holder or proprietor of the lease so rendered void shall have no claim for indemnity or compensation by reason of such avoidance. 48 V. c. 9, s. 8.

Lessee not entitled to compensation in case of deficiency by reason of error.

9. If any person shall enter upon or pass over the land described in a fishery lease without permission of the lessee or his representative, he shall, on conviction thereof incur and pay a fine of not less than \$1 nor more than \$10, with costs of prosecution, for each offence, and in default of immediate payment of such fine and costs shall be imprisoned in the common gaol of the county, within which the offence was committed, for a period not exceeding one month; provided, however, that this section shall not apply to any person entering upon or passing over the lands in discharge of any duty imposed by law, nor, when the lands are included in a timber license, to the holder thereof, who shall at all times have the right to cut and take away all trees, timber and lumber within the limits of his license; nor to prevent the owners or occupiers of lands bordering on any waters to a general right of passage to and from such waters; nor the public user of any waters, or the banks thereof, either for the conveyance of lumber of any kind, or for the free navigation thereof by vessels, boats, or other craft; nor to any user under license by the Crown of any such lands or waters for any purpose or occupation not inconsistent with the provisions of this Act. 48 V. c. 9, s. 10.

Penalty in case of trespass.

Proviso.

10.—(1) Every fishery lease shall be deemed and taken to have been made and granted subject to a right of passage to and from any waters in favour of the occupants, if any, under title from the Crown, of the lands immediately in rear of those included in the fishery lease.

Rights of passage.

(2) In the discharge of his duties every fishery overseer, and every person by him accompanied or authorized to such effect, may enter upon and pass through or over private property without being liable for trespass. 48 V. c. 9, s. 11.

Appointment
of Fishery
Overseers.

11. The Lieutenant-Governor in Council may, if he considers it expedient, appoint Fishery Overseers, whose duties shall be defined by the regulations made under this Act, and every overseer so appointed and having taken the oath of office prescribed by this Act, shall be, *ex-officio*, a Justice of the Peace for all the purposes of this Act and of any regulations made under authority thereof within the county or district for which he is appointed to act as overseer. 48 V. c. 9, s. 12.

Oath of
Overseer.

12. Every fishery overseer shall, before acting as a Justice of the Peace under this Act, take and subscribe the following oath:—

"I, A. B., a Fishery Overseer in and for the district or territory described in my appointment, do solemnly swear that, to the best of my judgment, I will faithfully, honestly and impartially fulfil, execute and perform the office and duty of such overseer according to the true intent and meaning of *The Ontario Fisheries Act*, and of all regulations made or to be made thereunder. So help me God."

48 V. c. 9, s. 13.

Regulations
may be made
by Lieutenant-
Governor in
Council.

13.—(1) So far as the Legislature of Ontario has authority so to enact, the Lieutenant-Governor in Council may, from time to time, make regulations, and may from time to time vary, amend, and alter all and every such regulation as shall be found necessary or deemed expedient for the better management and regulation of Crown lands leased under the operation of this Act and the fishing rights thereto pertaining, or of any fishing license which may be made or granted under the operation of this Act; and to prevent the destruction of fish, and to forbid fishing in any waters except under authority of a fishery lease or fishing license; and all regulations shall have the same force and effect as if herein contained and enacted, and every offence against any regulation may be stated as having been made in contravention of this Act.

(2) The publication of any regulation in the *Ontario Gazette*, shall be sufficient notice to give legal effect to the same; and the production of a copy of a paper purporting to be the *Ontario Gazette*, and containing any regulation shall, so far as the Legislature of Ontario has authority so to enact or direct, be admitted as full and sufficient evidence of the same, in all Courts. 48 V. c. 9, s. 14.

Remuneration
of Overseers,
etc.

14. The remuneration of the Fishery Overseers and of all other persons employed to perform any duty imposed by this Act or by the regulations made under it, shall be determined by the Lieutenant-Governor in Council, and shall be paid out of moneys derived under the provisions of this Act, and appropriated for that purpose by vote of the Legislative Assembly. 48 V. c. 9, s. 15.

Appointment
of guardians

15.—(1) The Commissioner may, upon the request of any lessees of fishery leases, or without such request, appoint as many

guardians as may be deemed necessary for the effectual protection of the fisheries, or rights of fishing in any waters; such guardians shall be sworn to the faithful discharge of their duties, and especially to prevent the taking or killing, or attempting to take or kill fish in the waters under their charge by illegal means, or at times when the taking or killing of fish is prohibited by lawful authority; they shall be employed for such length of time as the Commissioner shall consider necessary, and their services shall be paid for by the lessees. for protection of fisheries.

(2) If thereunto required by the Commissioner a lessee shall keep and maintain, at his own expense, within the limits granted to or conferred upon him by a fishery lease, and for such time or times as the Commissioner may in that behalf prescribe, one or more efficient guardians, whose duties shall in all respects be the same as those of the guardians in the preceding sub-section mentioned. 48 V. c. 9, s. 16.

16. It shall be a condition of every Fishery Lease that the lessee shall, as soon as possible after the close of every fishing season, transmit to the Department of Crown Lands a statement of the number and weight of fish caught in the waters affected by the lease. Returns by lessees. 48 V. c. 9, s. 17.

17. The Commissioner may, with the consent of the owners, and for the purposes of management only, assume the control of fishing rights pertaining to granted lands fronting on any stream, river or lake, with a view of improving or leasing the same in connection with those pertaining to Crown Lands fronting on the same stream, river or lake, and paying over to the private owners of such fishing rights a proportionate share of the rent received for the whole. Control of fishing rights pertaining to granted lands may be assumed by Commissioner with consent of owner. 48 V. c. 9, c. 18.

18. It shall be lawful for the Commissioner, or any officer thereto authorized by him, to grant permits to fish in any waters adjoining Crown Lands not under lease for a period not exceeding one month, upon such terms and subject to such restrictions and conditions as shall be provided by order of the Lieutenant-Governor in Council to that effect. Fishing permits. 48 V. c. 9, s. 19

19. Any fishery lease, or fishery license or permit held by any person, convicted of any contravention of this Act, or of any regulations made and published as aforesaid, may be annulled and cancelled by the Commissioner, and thereupon such person shall forfeit all his rights and privileges under such lease, license or permit, and shall not be entitled to or have any claim or right to any indemnity or compensation in respect thereof. Cancellation of leases, etc. 48 V. c. 9, s. 20.

20. A fishery lease shall entitle the lessee to institute in his own name any action, or proceeding against any person unlawfully trespassing upon, damaging or invading the Lessee to have right of action for trespass.

rights, property, premises or privileges granted by the lease, and also to sue for and recover any damages sustained by him as such lessee. 48 V. c. 9, s. 21.

Liability of lessee for damage to lands included in lease.

21. Every lessee to whom a fishery lease is granted, shall be answerable for damage done to the lands in the lease described, and the timber growing thereon, or on adjoining lands, either by himself or his agents, or persons under his control, either from waste or from want of sufficient precautions in lighting, watching over or extinguishing fires; and it shall be incumbent on every lessee, in case of damage caused by fire, to prove that all such precautions have been taken. 48 V, c. 9, s. 22.

Waters may in certain cases be reserved from lease.

22. It shall be lawful for the Lieutenant-Governor in Council, upon the recommendation of the Commissioner, to reserve from lease for one or more years, for purposes of improvement, any waters, the exclusive right of fishing in which is within the meaning of section 2 of this Act. 48 V. c. 9; s. 23.

Lease of waters in which Indians allowed to fish.

23. The Commissioner may appropriate and license or lease certain waters in which certain Indians shall be allowed to catch fish for their own use in and at whatever manner and time, and subject to whatever terms and conditions are specified in the license or lease. 48 V. c. 9, s. 24.

Provisions as to setting apart waters for natural or artificial propagation of fish.

24. The Commissioner may authorize to be set apart, and to be leased, any waters for the natural or artificial propagation of fish, and any person who wilfully destroys or injures any place so set apart or used for the propagation of fish, or fishes therein without written permission from a Fishery Overseer, or from the lessee or licensee thereof, or uses therein a fishing light or other like implement for fishing, during the period for which the waters are so set apart, shall for every offence incur and pay a fine not exceeding \$100, with costs of prosecution, and in default of immediate payment of such fine and costs, shall be imprisoned in the common gaol of the county wherein the offence was committed, for a period not exceeding three months. 48 V. c. 9, s. 25.

Commissioners may grant permission to obtain fish, etc., for certain purposes.

25. Nothing contained in this Act shall preclude the granting by the Commissioner of written permission to obtain fish and fish spawn, for purposes of stocking or artificial breeding, or for scientific purposes, subject always to any regulation or restriction made or prescribed by or under any lawful authority in that behalf. 48 V. c. 9, s. 26.

Penalty for fishing within limits of fishing lease without permission of lessee.

26. If any person without permission of the lessee or his representative, fishes, or employs or induces another person to engage or assist in fishing within the limits included in a fishery lease, or removes or carries away, or employs or induces

or assists another person to remove or carry away any fish caught within such limits, he shall not acquire any right to the fish so caught, but the same shall be forfeited and become the absolute property of the lessee, and such person shall therefor, and upon conviction thereof incur and pay a penalty of not less than \$5 or more than \$20 with costs of prosecution, and in default of immediate payment of such fine and costs shall be imprisoned in the common gaol of the county within which the offence was committed for a period not exceeding one month; and the lessee or any person by him authorized, and any Fishery Overseer, may upon his own view forthwith seize and remove any net, article or apparatus so used in fishing or to assist in fishing contrary to the provisions of this section, to be afterwards dealt with according to law; provided always, that the occupation of any fishing grounds or waters leased for the express purpose of net fishing, shall not interfere with nor prevent angling for other purposes than those of trade or commerce. 48 V. c. 9, s. 27. Proviso.

27. If any of the provisions of this Act or of any regulations made under the authority thereof by the Lieutenant-Governor in Council, are contravened and no other penalty is herein provided for such contravention, the person guilty of such contravention shall on conviction thereof incur and pay a fine of not more than \$20 with costs of prosecution, and in default of immediate payment of such fine and costs shall be imprisoned in the common gaol of the county within which the offence was committed, for a period not exceeding one month. 48 V. c. 9, s. 28. Penalty for contravention of Act where no special penalty.

28. Contravention on any day of any of the provisions of this Act, or of any regulation made under the authority thereof by the Lieutenant-Governor in Council, shall constitute a separate offence, and may be punished accordingly. 48 V. c. 9, s. 29. Separate offences.

29. The following provisions shall have effect with respect to summary proceedings for offences, fines and penalties under this Act; Provisions with respect to summary proceedings.

1. The information shall be laid within two months after the commission of the offence;

2. The description of an offence in the words either of this Act or of any regulations made by authority thereof, or in any similar words, shall be sufficient in law;

3. Any exception, exemption, proviso, excuse or qualification, whether it does or not accompany the description of the offence in this Act, or in any regulation made by authority thereof, may be proved by the defendant, but need not be specified or negatived in the information or complaint, and if so specified

or negatived, no proof in relation to the matters so specified or negatived shall be required on the part of the informant or complainant;

4. A conviction or order made in any matter arising under this Act, either originally or on appeal, shall not be quashed for want of form, and a conviction or order made by a court of summary jurisdiction, against which a person is authorized by this Act to appeal, shall not be removed by *certiorari* or otherwise, either at the instance of the Crown or of any private person, into the High Court, except for the purpose of the hearing and determination of a special case;

5. Whenever it shall appear to the satisfaction of the convicting magistrate that an offence against this Act or any regulation made thereunder has been committed in ignorance of the law, and that because of the poverty of the offender, the fine or penalty imposed would be oppressive, a discretionary power may be exercised;

6. Any Fishery Overseer or magistrate may upon his own view convict for any offence against the provisions of this Act, or of any regulation made thereunder, and shall instantly remove or cause to be removed and detain all materials and articles illegally in use;

7. Where any offence under this Act is committed in, upon, or near any waters forming the boundary between different counties or districts, such offence may be prosecuted before any magistrate or Fishery Overseer, for either of such contiguous counties or districts. 48 V. c. 9, s. 30.

Application
of fines and
penalties.

30.—(1) One-half of every fine or penalty imposed by virtue of this Act shall belong to Her Majesty for the uses of the Province, and the remaining half shall be paid to the prosecutor, together with any costs which he may have incurred; every fine, penalty or forfeiture imposed by this Act, or by the regulations made thereunder, may be recovered on parole complaint before any Fishery Overseer or before any one of Her Majesty's Justices of the Peace in and for the county where the fine or penalty was incurred or the offence was committed or wrong done, and in cities, towns and villages in which there is a Police Magistrate, before such Police Magistrate, on the oath of one credible witness.

(2) All materials, implements or appliances used, and all fish had in contravention of this Act, or any regulation made thereunder, shall be confiscated to Her Majesty for the uses of the Province, and may be seized and confiscated on view by any Fishery Overseer, or taken and removed by any person for delivery to any magistrate or Fishery Overseer, and the proceeds of disposal thereof may be applied towards defraying expenses incurred under the provisions of this Act; but nothing in this sub-section contained shall apply to any forfeiture of fish under the provisions of section 26 of this Act.

(3) The moiety of every fine or penalty belonging to Her Majesty for the uses of the Province, and all proceeds derived from the sale of articles confiscated to Her Majesty under this Act, shall be paid over to the Treasurer of the Province through the Department of Crown Lands, and shall be applied towards the expenses incurred in carrying out the provisions of this Act.

(4) Persons aggrieved by such conviction or confiscation may appeal by petition to the Commissioner, who shall have power to remit fines and restore forfeitures under this Act. 48 V. c. 9, s. 31.

31. Save where otherwise provided by this Act, all the provisions of the Act intituled *An Act respecting summary convictions before Justices of the Peace, and appeals to General Sessions*, shall apply to all prosecutions and proceedings under this Act, except in proceedings on appeal, and the practice and procedure upon and with respect to appeals and all proceedings thereon and thereafter, shall be governed by *The Act respecting the Procedure on Appeals to the Judge of a County Court from Summary Convictions*, so far as the same is not inconsistent with this Act. 48 V. c. 9, s. 32.

Certain Acts
to apply to
prosecutions
under this Act.

32. Such annual or other reports of the Fishery Overseers as the Lieutenant-Governor from time to time directs, shall be laid before the Legislative Assembly. 48 V. c. 9, s. 33.

Reports to be
laid before
Legislative
Assembly.

FISHERY REGULATIONS.

Copy of an Order-in-Council, approved by His Honour the Lieutenant-Governor, the 26th day of May, A.D. 1887.

Upon the recommendation of the Honourable the Commissioner of Crown Lands, the Committee of Council advise, that the accompanying regulations under the "Ontario Fisheries Act, 1885," be approved of and established by Your Honour.

Certified,

J. LONSDALE CAPREOL,

Asst. Clerk, Executive Council, Ontario.

The Honourable

The Commissioner of Crown Lands.

The Commissioner of Crown Lands has the honour to recommend to the Executive Council that the following regulations be made under "The Ontario Fisheries Act, 1885," namely :—

1. That leases granted for the purpose of conveying the fishing rights pertaining to public lands adjoining the rivers, streams and lakes of the Province, shall be for the depth of one chain inland from the water's edge.

2. Such leases shall be granted as far as practicable to responsible parties, able and willing to improve the lakes and rivers and guard them well. Applicants having in view the personal use and enjoyment of the fishing rights to be generally preferred to such as may offer higher rents with a view to farming or sub-letting the right to fish. Care to be taken that residents in the Province be allowed to enjoy a due proportion of the fishing rights.

3. That the valuation of the lands for rent shall be based on the character and condition of the rivers, streams and lakes which they adjoin, as made known to the Department of Crown Lands by reports of official inspectors or private individuals, all such reports to be considered confidential, and not to be communicated to other parties without the express authorization of the Commissioner of Crown Lands. Offers made by applicants for leases not to be communicated to other applicants.

4. That leases of lands made and granted under the provisions of "The Ontario Fisheries Act," shall not be held to convey the right to work any mine that may be found on such lands, or to cut any timber thereon.

5. That licenses and permits to fish shall be granted upon the payment in advance of such fees as the Commissioner of Crown Lands may from time to time determine, and shall be valid until the close of the angling season of the year in which it is granted.

6. That excessive or wasteful fishing or killing of fish shall involve the cancellation of the lease, license or permit covering the waters in which it has taken place.

7. That it be obligatory upon any person who has no domicile in the Province of Ontario, and who desires to fish in the rivers, streams or lakes under the control of the Province, to procure a permit or license to that effect from the Commissioner of Crown Lands before beginning to fish.

8. That no person shall, except under authority of a fishery lease, fishing license, or permit, fish for, catch or kill any fish in any inland lake, river or stream adjoining the ungranted lands of the Province.

9. That no person shall, without lawful authority, fish for, catch or kill, by any device or means, any fish during their spawning time, or disturb or destroy their spawn or spawning-beds.

10. That it shall not be lawful to fish for, catch, or kill, brook trout, salmon trout, white fish, bass, pike, pickerel, maskinongé, tulibee, grayling, herring or perch, in any inland lake, river, or stream under the control of the Province, by any device or means other than by hook and line or angling, except in waters leased or licensed for the express purpose of net fishing.

11. That it shall not be lawful to use any explosives, or chemical material, or compound, for the purpose of killing or catching fish.

12. That fishing by torchlight, or other artificial light, placed in or above the water is prohibited.

13. That no person shall fish for, catch, kill, buy, sell, or have in possession any fish at times when the taking or killing of fish is prohibited by lawful authority.

14. That parties holding leases under the provisions of "The Ontario Fisheries Act" shall not have any recourse against the Government of the Province for any hindrance to their use and enjoyment of the fishing rights pertaining to the lands leased, by the operation of any law enacted or that may be hereafter enacted by the Parliament of Canada, or by any action of the Government of Canada, or any person employed thereunder.

15. It shall not be lawful to use or set in any of the inland rivers, streams or water courses within the Province, any net, rack, trap, weir, or obstruction for the purpose of catching fish, or whereby the free passage of fish up and down the same may be obstructed or prevented.

16. The catching, killing, or molesting of fish when passing or attempting to pass through any fish-way or fish-pass, or in surmounting any obstacle or leaps, the use of any invention to catch, kill or molest fish in the mill-heads and water-courses appurtenant thereto, are hereby forbidden.

17. It shall not be lawful to put into any waters in any inland river, stream or lake in the Province where fish are taken, any offal, blood, putrid brine, putrid fish, or other deleterious substance, and all fish, offal, or filth of any description whatsoever accruing from the catching and curing of fish, shall be burned or buried twenty yards distant from the water's edge of said river, stream or lake.

Close Seasons.

It shall not be lawful to fish for, catch, kill, or have in possession :

Speckled Trout, between the 15th September and the 1st May.

Pickeral (Doré), between the 15th April and 15th May.

Bass and Maskinongé, between the 15th April and 15th June.

White Fish and Salmon Trout, between the 1st November and 30th November.

T. B. PARDEE,
Commissioner of Crown Lands.

Department of Crown Lands,
Toronto, 5th May, 1887.

GAME AND FISHERY LAWS OF ONTARIO.

TABLE OF CLOSE SEASONS.

GAME.

NAME.	DATE.	REMARKS.
1. Deer	From 20th November to 15th October.	
2. Moose, Elk, Reindeer or Cariboo.	From 20th November to 15th October,	<i>No Moose, Elk, Reindeer or Cariboo shall be hunted, taken or killed until after 15th October, 1895.</i> <i>Deer, Moose, Elk, Reindeer or Cariboo shall not at any time be taken or killed for export out of Ontario.</i> <i>A person who is not an actual resident of Ontario or Quebec shall not hunt or kill any kind of deer, prior to 1895, unless he has obtained a permit from the Commissioner of Crown Lands. The fee is \$10, and the permit is good for a year.</i> <i>No one person shall during any one year prior to 1895 take or kill more than five deer.</i> <i>Deer, Moose, Elk, Reindeer or Cariboo shall not be trapped or snared. Hounds shall not be allowed to run at large where deer are usually found from 15th November to 15th October.</i>
3. Grouse, Pheasants, Prairie Fowl or Partridge.	From 1st January to the 1st September.	
4. Quail or Wild Turkeys.	From 15th December to 15th October.	Partridge or Quail shall not at any time be taken or killed for export out of Ontario.
5. Woodcock.....	From 1st January to 15th August.	The sale of Quail is prohibited until 15th October, 1892.
6. Snipe, Rail & Golden Plover.	From 1st January to 1st September.	The eggs of any of the birds herein mentioned shall not be taken or destroyed at any time.
7. Swan or Geese	From 1st May to 1st September.	None of the birds mentioned shall be trapped or snared, and Swans, Geese or Ducks shall not be killed by batteries, swivel guns or sunken punts.
8. Ducks of all kinds and all other water-fowl.	From 1st January to 1st September, and at any time of the year between one hour after sunset and one hour before sunrise.	
9. Hares	From 15th March to 1st September.	
10. Beaver, Mink, Muskrat, Sable, Martin, Otter or Fisher.	From 1st May to 1st November.	

FISH.

NAME.	DATE.	REMARKS,
1. Speckled Trout	From 1st November to 30th November.	Net fishing is prohibited except under leases or licenses.
2. Pickerel (Doré)	From 15th April to 15th May.	The use of explosives or chemical material for killing or catching fish is illegal.
3. Bass and Maskinongé	From 15th April to 15th June.	Fishing by torchlight or other artificial light is prohibited.
4. Whitefish	From 1st November to 30th November.	Persons who do not reside in the Province must procure from the Commissioner of Crown Lands a permit or license before beginning to fish—the fee is \$5.00 and the permit shall be good till the end of the angling season of the year in which it is granted.
5. Salmon Trout	From 1st November to 30th November.	

LIST OF OVERSEERS.

NAME.	ADDRESS.	DISTRICT.
William McKirdy	Nepigon	River Nepigon, Lake Nepigon and adjacent waters
Joseph Whalen	Port Arthur	Thunder Bay.
John H. Willmott	Beaumaris	Muskoka.
Francis J. Moore	Lakefield	Counties of Victoria, Peterborough and Haliburton.
Norman Clark	Mississippi Station.	County of Lanark and north parts of Frontenac and Addington.
John J. Little	Day Mills	Part of Algoma between Garden River Reserve and the township of Long.
Samuel R. McKewen ..	Tehkumah ..	Manitoulin Island.
Benjamin McDermott.	Sundridge	Parry Sound.
Robert R. Smith	Eganville	County of Renfrew.

ECONOMIC MINERALS OF ONTARIO.

Silver.—Native, etc., St. Ignace, and Michipicoten Island, Nepigon Bay, Princess and Thunder Bays, Sudbury (combined with copper, nickel and cobalt), Prince's location (native silver with sulphuret of silver), Shebandowan District, Silver Islet, Jarvis Island, Rabbit, Beaver, Badger and Silver Mountains, and Whitefish and Atik Lake Districts, and many other localities.

Gold.—Madoc, Marmora, Elzevir, Heron Bay, Prince's location, Shebandowan Lake, Jack-fish Lake, Huronian and Highland Mines, Long Island in Lake-of-the-Woods, Rat Portage, Township of Denison and adjacent Townships south-west of Sudbury.

Galena.—In mineral veins north shore of Lake Superior, Prince's location, Thunder Bay and Thunder Cape, Black Bay, Townships of McTavish, Dorion and McGregor, Silver District west of Rabbit Mountain, Hudson's Bay, Fitzroy, Lansdowne, Ramsey, Bedford, Bastard.

Argentiferous Galena.—Victoria and Cascade mines near Sault Ste. Marie, Echo Lake, Thunder Bay, Silver District west of Rabbit Mountains, Lake Temiscaming, Lake Tamagaming, Montreal River.

Lead.—At Silver Lake, Thunder Bay, vein of quartz and barytes holding galena, Enterprise mine, Lake Superior, Black Bay, Pointe aux Mines, Lake Superior, Pigeon River, Kaministiquia River.

Copper, Sulphurets, etc.—Lake Superior, Spar Island, Prince's location, a four feet vein, (vitreous sulphuret with silver); St. Ignace Island (native copper with silver) Michipicoten Island (native copper with silver), Michipicoten Bay, Mica Bay, Mamainse (yellow, variegated and vitreous sulphurets), Battle Island, Cape Gargantua, Batchewaung Bay, Pointe aux Mines, Mica Bay, Black River, Black Bay, Thunder Bay, Bruce Mines, Root River, Echo Lake, Wallace Mine, Otter Head, Pic River, Battle Island, Lake Nepigon; a copper formation carrying nickel and gold extends from Wahnapiatae Lake, via Sudbury and Lac Penage to the Wallace mine location on Lake Huron.

Iron.—Wallace Mine location, Desert Lake, Killarney, McNab, (specular iron ore), Marmora, Madoc, South Sherbrooke, Bedford, (magnetic), Wollaston, Palmerston, Snowden, Glamorgan, Bagot, Blithfield, Middleton, Charlotteville, Walsingham, Gwillimbury West, Fitzroy, (Limonite or bog ore), Batchewaung Bay, Gros Cap, Michipicoten, Loon Lake on Thunder Bay, Pic River, Magpie River, Iron Island, Lake Nipissing, Gunflint Lake and Hunter's Island (magnetic and hematite).

Nickel.—Wallace Mine, Michipicoten Island, 3A mine on Thunder Bay, Sudbury Region.

Barytes.—Permanent White—Lake Superior in a multitude of veins along the north shore, and between Pigeon River and Thunder Cape, Bathurst, McNab, Lansdowne.

Jasper.—North-west shore of Lake Huron, Batchewaung Bay and north of Thunder Bay.

Agates.—St. Ignace and neighbouring islands, Michipicoten Island and other localities.

Serpentine.—Nepigon River.

Amethysts.—Thunder Bay coast, Spar Island and other localities.

Bismuth.—Thunder Bay north of 3A mine, Echo Lake.

Antimony.—North shore of Lake Superior, Garden River, Echo Lake.

Ribbond Chert, (for cameos).—Thunder Bay.

Cobalt, (for glass staining and porcelain painting, etc).—Prince's mine, Thunder Bay.

Retinite, pitchstone and Basalt, (for making black glass).—North shore and islands of Lake Superior, trap dykes north shore of Lake Huron and neighboring islands.

White quartz Sandstone (for making glass).—Cayuga, Dunn, north shore of Lake Superior, north shore Lake Huron and the islands near, in great abundance.

Soapstone.—Elzevir, near Thunder Bay and on Hudson Bay.

Molybdenum, (for dyeing purposes and calico printing).—Terrace Cove on Lake Superior, and in rock cuts on the railway on the north shore of the lake.

Arsenic.—Several localities on North shore of Lake Superior.

Roofing Slates.—Montreal River, west of Port Arthur on Canadian Pacific Railway,

Manganese.—Batchewaung Bay on Lake Superior.

Mica.—Lake-of-the-Woods east of Rat Portage, Burgess and localities between Rideau Lake and Lake Nipissing.

Lignite.—Rainy River near Fort Frances, Albany River north of Lake Nepigon, Missinibi River a branch of the Moose River.

Tellurium.—Huronian mine near Port Arthur.

Zinc.—Near Ross Port on line of C. P. Ry., east of Port Arthur.

Asbestos.—Lake Nepigon, west of Sturgeon River, north of Hagar and many localities in the Laurentian formation.

Graphite, (for refractory crucibles and burnishing material for stoves and grates).—Fitzroy, Burgess, Wollaston.

Gypsum.—Dumfries, Brantford, Oneida, Seneca, Cayuga, etc., the localities are very numerous. Moose River and north of Michipicoten.

Phosphate of Lime.—Burgess, Bedford, etc.

Shell Marl.—North Gwillimbury, Bromley, McNab, Nepean, Gloucester, Hawkesbury, Somerville.

Grindstones.—A sandstone known as the gray-band, and found at the base of the Upper Silurian of Ontario in many localities is employed for the fabrication of grindstones. The Potsdam Sandstone is also employed for the same purpose.

Whetstones.—Madoc, Marmora, Lake Mazinaw, Fitzroy.

Fire Clay and Kaolin.—Near Thunder Bay and Peninsula Harbor.

Salt.—County of Huron.

BUILDING MATERIALS.

Sandstone.—A beautiful variety of yellowish-white sandstone occurs at Niagara, Queenstown, Barton, Hamilton, Flamboro' West, Nelson, Nassagaweya, Esquesing, Nottawasaga, Cayuga and Nepigon Bay islands.

Calcareous Sandstone.—Brockville, Ottawa and a great many places on the Ottawa River.

Limestones.—Malden, Manitoulin and St. Joseph's Islands, Cape Hurd, Cabot's Head, Sydenham, Euphrasia, Nottawasaga, Mono, Esquesing, Nelson, Ancaster, Thorold, Matchedash Bay, Orillia, Rama, Mara, Marmora, Madoc, Belleville, Kingston, McNab, Ottawa, Plantagenet, Hawkesbury, Cornwall, Echo Lake, Black Bay.

Hydraulic Limestones.—Point Douglas, (Lake Huron), Paris, Cayuga, Thorold, Kingston, Loughboro'.

Flagging Stones.—Toronto, Etobicoke, River Credit, York, Temiscaming, Bagot, Horton, Sawyer's Bay, Thunder Cape.

Clays.—Clays suitable for the fabrication of red bricks, tiles and coarse pottery are everywhere found through the valleys of the St. Lawrence and the Ottawa. Clays for the manufacture of white bricks are met with at London, Toronto, Cobourg and Peterborough.

Moulding Sand.—Augusta, near Prescott.

Fullers' Earth.—Nassagaweya.

Marbles.—*White*—Lake Mazinaw, Hungerford, Barrie. *Grey and variegated*—McNab. *Black*—Madoc, Lake Nepigon, Sunshine Creek, Echo Lake.

COMBUSTIBLES, ETC.

Peat.—Humberstone, Wainfleet, Beckwith, Goulbourn, Gloucester, Cumberland, Clarence, Plantagenet, Alfred, Caledonia, Osnabrock, Finch, Winchester, Roxborough.

Petroleum and Asphaltum.—Enniskellen, Mosa and many localities on the Thames.

PRACTICAL SUGGESTIONS TO EXPLORERS.

1. Examine the gravel and boulders of the mountain streams, and note carefully the structure and character of the gravel wash. This will reveal the geological formations that are intersected by the stream. Try the sands at the head of the gravel bars for free gold or for any crystallised minerals. If the structure of the quartz boulders or other vein stones is favorable, go up the stream until the geological zone is found that has produced the quartz or other metal bearing minerals. Then follow the supposed metal-bearing zone on its line of strike, and make especially careful examinations wherever eruptive dykes are found intersecting the formation.

2. When a load or vein is found, note carefully its relation to the country rock, especially any differences in the opposite walls of the vein. Then follow it on the line of outcrop, and note carefully those points where the best ores are seen, so as to determine the position of the best ore chutes before making any location on the lode.

3. The first work should consist of shallow cuts across the lode at intervals of 50 to 100 feet, or if the vein is small and partially covered by soil and debris, a trench along the line of outcrop is preferable.

4. The work of exploring the vein under ground is the next thing in order. To do this intelligently you must select that point on the line of outcrop where the best ore is found, then sink a shaft on the lode following the angle of dip, keeping both foot-wall and hanging-wall exposed if possible. If the lode is too wide for this to be done, then follow the best ore streak of the vein itself, and at every fifty feet in depth make cross-cuts to the walls of the vein.

5. After 100 feet deep has been reached, run levels each way from the shaft on the line of the vein in order to determine the extent or spread of the ore chute or chimney on the horizontal line. When the limit of the ore body on the horizontal line has been ascertained, then sink 100 feet more, and drift right and left as before. If more than one chimney of ore is found on the line of the vein a shaft should be sunk on it and drifts run as above stated, being careful to confine all the exploring work within the walls of the vein itself.

6. When enough has been done to prove the character, size and quality of the vein it will then be time to determine the position, character and extent of the "dead-work" necessary to work the mine to the deep. These questions should be settled by careful surveys made in the light of all the local

facts and surroundings, such as the geological structure of the country rock, the probable amount of water to be raised, the lowest point of drainage by adit or level, and the most convenient point for the delivery of the ores to the surface, etc. The last part of the preliminary exploration of any mine is to determine, by actual tests, what are the best methods of reduction, and the extent and kind of reduction works needed, etc.

7. After all these preliminary facts have been thoroughly ascertained and clearly defined, the unavoidable risks of mining will have been fully met and overcome. All subsequent operations are simply matters of skill and business management, and the capitalising of the mine becomes a mere matter of business detail.

PROF. CLAYTON.

During their travels through Ontario the Commissioners were constantly meeting explorers who did not seem to have any idea in reference to a starting point to their working, but were travelling through the region at random, trusting to chance to make a discovery. Quite a few had spent months unsuccessfully in pursuit of what they would have been able to determine in a very short period had they the necessary knowledge to guide them.

It has therefore been deemed advisable to give a few practical hints, gathered from the observation and experience of one who has been actively engaged in explorations and developments in this province during the last eighteen years, for the assistance and guidance of explorers as well as others.

In every section of the country where minerals are found the granite formation is the most prominent among all the rocks, running north and south or on that strike. This granite range is the first that should be explored thoroughly, keeping near to it, and on the easterly side of the ridge. This will be found a good starting point, as the granite is the oldest formation, and as the course of the iron ore is in a westerly direction it follows naturally that near the granite the heaviest bodies of ore are to be found. Iron ore outcrops running north and south in the middle of any formation, and not near the granite, as a rule will not make permanent mines. It is believed generally that diorite or "green rock," as the miners term it, is the matrix of iron ore, but still if an outcrop of iron ore is found in the centre of and surrounded by this green rock on all sides, it will not, as a rule, make a permanent mine. The writer gives it as his firm opinion, justified by facts, that no iron deposit surrounded on all sides by the same kind of rock will be lasting. Sometimes large outcrops on the surface have been found in these occurrences, but in every instance on practical working both by the hammer and drill and by diamond drill boring, such occurrences have been exhausted at short depths. It is judged as being useless to

spend money on iron ore deposits unless they are found with the granite on one side, and then between the granite and ore, diorete or green rock occurs (the latter sometimes in considerable abundance, and again not more than two or three feet thick), and on the other side of the ore quartzite or crystalline lime rock. The reader will perceive that this gives a distinct formation, which experience goes to prove assures a permanency of deposit. Another feature of a permanent mine is that there is a distinct cleavage between the ores and the walls enclosing it. Where these conditions do not accompany the deposit, the ore being encircled with the same class of rock is liable to be cut out at any time, and a find of this kind is only looked on as being fit to work while the deposit is in sight, and does not justify the purchase of machinery or erection of works. Sometimes as much as 5,000 or 10,000 tons may be taken out of these occurrences of ore, but there is no dependence to be placed on them as mines for permanent work.

The dipping to the north of an iron deposit is a very important feature in connection with the permanency. This northerly dip is caused by the abundance of ore in the mine, and its consequent attraction in that direction toward the North Pole. In some instances large deposits of ore occur dipping to the south near the surface, but at a further stage of development these dip to the north, which is a sure indication of a large body of ore.

The idea which still prevails with a few that iron mines are to be discovered by chance in any kind of rock has long ago been exploded, and with mining experts it has become a settled question that no permanent mines are to be discovered except in formations with the conditions above stated.

We may add that a large part of the best mines now being worked in the Marquette districts have been found at great depths. These discoveries were made through actual workings in a regular formation, although no traces of them were seen on the surface, showing that in working in a right formation large bodies of ore are constantly being found, although away from and apparently thrown off from the mine proper. This is accounted for by the ore coming in contact with an older formation of rock which does not show at the surface. In developing the additional find we are able to meet with the same occurrence in drifting to either the north or south, or in using the diamond drill, which goes to prove that having once located ourselves in the iron formation proper there is no end to the possibilities of continuing to find bodies of ore. This experience never takes place except where the iron formation is regular on the surface as above stated.

WILLIAM COE.

INDEX.

	PAGE.
Affidavits in land matters, before whom to be made.....	31
forms of.....	34, 47, 72
Agencies, Crown Lands, list of	5
Crown Timber.....	141
Assessment Act, statute labor in unincorporated townships	237
resident landholders may elect Road Commissioners	237
term of office	238
time for performance of statute labor	238
ratio of service	238
commutation	239
penalty	239
Colonization Roads, instructions for inspectors	262
Correspondents with Crown Land Department, general directions to.....	16
Crown Land agents	5
Crown Timber agents	141
Cullers' Act	123
interpretation	123
record to be kept by persons cutting saw-logs	123
examination for licenses to cull and measure saw-logs	124
Commissioner of Crown Lands may issue licenses	125
unlicensed persons not to make measurements	125
duties of cullers.....	125
marking logs	125
inspection of cullers records.....	126
returns to be made.....	126
cancellation of license	126
penalty for making false returns	126
act not to affect other regulations	126
commencement of act.....	126
Damage to lands by flooding	127
when application for damages may be made	127
form of application.....	127
service of	128
service of answer	128
place and time of hearing	128
award	129
mode of enforcing.....	129
payment of judge's expenses.....	130
joinder of claims.....	131
when action may be brought in Division Court	131
defects of form not to invalidate proceedings	132
limitations of action.....	132
application and effect of act	132
forms.....	133

	PAGE.
Ditches and Watercourses Act.....	240
council may appoint engineer.....	240
owners of adjoining lands to construct in certain proportions.....	240
notice to owner to repair	241
inspection by engineer.....	241
proceedings in case of dispute	242
duties of engineer.....	243
award to be filed with clerk	245
appeal	245
powers of judge.....	246
payment to contractor.....	247
engineer may re-let work	247
inspection by engineer on completion.....	248
penalty for neglect.....	248
power as to covering drains	249
flow of water not to be impeded	250
drain may be continued into adjoining municipality.....	250
forms.....	251
amendments (1889)	254
amendments (1890) expenses of County Judge.....	256
“ “ railway companies to be deemed owners	256
“ “ ditches, etc., on lands of railways.....	257
“ “ plans to be filed with engineer.....	257
“ “ company to enlarge bridges and culverts.....	261
Drainage, provisions of Municipal Act respecting	202
Duties on Crown Timber.....	137
Explorers, practical suggestions to	290
Flooding, damage to land by	127
Fire, act to preserve forests from destruction by	142
proclamation of fire district	142
publication of proclamation	142
restrictions as to starting fires	142
precautions to be taken in clearing land	143
“ “ in cooking, etc	143
act to be read to employees on surveys, lumber camps.....	143
duty of engine drivers.....	144
penalty	144
limitation of actions.....	144
Government agents to enforce Act	144
description of fire districts	145
circular to license holders	146
act to provide means to extinguish forest fires.	147
persons liable for statute labor may be called out	147
work done to be allowed for as statute labor	147
county council may provide for payment.....	148
penalty for refusing to assist	148
Fisheries Act.....	273
interpretation	278
leases and licenses may be issued	274
forfeiture for nonpayment of rental	274

Fisheries Act—Continued.	PAGE.
appointment of overseers and guardians	276
returns to be made by lessees	277
• permits for short periods	277
cancellation of leases, etc	277
rights and liabilities of lessee	278
propagation of fish, setting apart waters for	278
penalties and prosecutions	278
regulations	282
close seasons	284, 286
list of overseers	286
Forests, Act to preserve from fires	142
Act to provide means of extinguishing fires in	147
Forms, affidavits from applicants for free grant, single man	47
“ “ “ head of a family	47
“ for allowance for rock and swamp	48
“ from applicant for location in Rainy River District	49
“ proving performance of settlement duties	50
“ in support of application for cancellation	51
“ in support of application under Mining Act	72
“ from applicant to purchase in Algoma and Nipissing	34
“ proving performance of settlement duties	34
timber license	189
agreement between surveyor and apprentice	181
Free Grants, limited to certain localities	1, 35
who may obtain, and the quantity of land	1, 36
affidavits required	47
second location may be obtained	3, 86
when patent may issue and settlement duties	2, 36
form of affidavit required showing settlement duties	50
pine trees and minerals reserved	37
amendment, 1890, allowing locatee to cut pine for his own use	37
payment by Crown of part of timber dues to patentee	38
power of Commissioners to grant timber licenses	38
timber licenses confirmed	39
alienation by locatee not allowed	3, 89
after issue of patent wife must join in conveyance	8, 39
rights of widow of locatee	4, 89
exemption of land from liability for debt	4, 40
sums due settlers homestead fund remitted	40
remission of sums due in certain townships	41
conveyance of land by locatee without concurrence of wife	41
Commissioner may dispense with residence, etc., in certain cases	42
remission of sums due for seed grain	43
in Rainy River District	43
“ “ who may be located, etc	44
“ “ when patent may issue	44
pine trees remaining when patent issues pass to patentee	44
regulations of May, 1869	45
locatees may purchase an additional 100 acres	45
right of the Crown to construct roads	45
right of license holders to have timber	46

Free Grants—Continued.

	PAGE.
regulations of July, 1875, quantity of land allowed in section townships.	46
interest of locatees may be sold for taxes	4
how tax purchaser must proceed to secure a title	5
townships open for location	5
Muskoka agency	5
Parry Sound	5
Maganetawan	6
East Parry Sound	6
Nipissing agency	6
Mattawa agency	6
Minden agency	6
Haliburton agency	7
Peterborough agency	7
North Hastings agency	7
Frontenac and Addington agency	7
North Renfrew agency	8
Centre Renfrew agency	8
South Renfrew agency	8
Bruce mines agency	8
St. Joseph's Island agency	8
Sault Ste. Marie agency	9
Thunder Bay agency	9
Rainy River agency	9
Game Act	267
close season for animals and birds	267
possession and exposure for sale, how far lawful	268
protection of eggs	268
trapping and batteries, etc., forbidden	268
fur-bearing animals protected	268
penalties	268
deer and quail not to be killed for export	269
hounds not to run at large	269
appointment of inspectors and duties of	270
deer not to be hunted by non-residents without license	270
deer, number which one person may kill	271
before whom prosecutions to be brought	271
forms	272
table of close seasons	285
Highways and Bridges, provisions of Municipal Act respecting	183
Land Surveyors, Act respecting	151
interpretation	151
who may act	152
board of examiners	152
meetings, when and where to be held	152
apprentices, qualification, etc.	153
Dominion land surveyors	155
graduates of military college and school of practical science	155
admission of candidates	156
examination	156
licentiates to give bonds	156

Land Surveyors—Continued.	PAGE.
suspension or dismissal	157
tariff of fees	157
boundary lines, establishment of	158
standard of measure	158
chain bearers to be sworn	158
power to pass over private lands	159
municipal council may have monuments placed	160
road allowances in cities to be public highways	162
subsequent surveys of lands granted in blocks	163
governing line, declared	163
side lines, how to be run	163
what shall be deemed front of a concession	165
double fronted concessions	166
cases where original post cannot be found	167
registration of plans	169
regular journals and field-notes to be kept	172
surveyor may administer oaths	172
evidence, how taken	172
penalties	173
form of agreement between surveyor and apprentice	181
Land Titles Act, registration of patents in new districts	174
rules regarding the filing of plans	175
local masters in new districts	17
License to cut timber, form of	189
Mining, Act respecting	63
interpretation	63
royalties abolished	64
reservations of minerals in patents rescinded	64
mining locations, requirements of	64
“ price of	65
“ pine trees to be reserved	65
mining divisions may be established	66
inspector may be appointed—his powers	66
mining licenses	67
laying out claims and provisions as to	68
constables, appointment of	70
riots near public works, act respecting to apply	70
Lieutenant-Governor in Council may make regulations	71
penalties	71
mode of trial by inspector or magistrates	72
local agents for sale of may be appointed	72
form of affidavit to be filed by applicant	72
Mining Operations Act	73
application of Act	73
interpretation	73
employment of women and children	74
hours of employment of boys	74
register to be kept of boys employed	74
employment of young persons in connection with engines	75
penalty for contravention of the Act	75

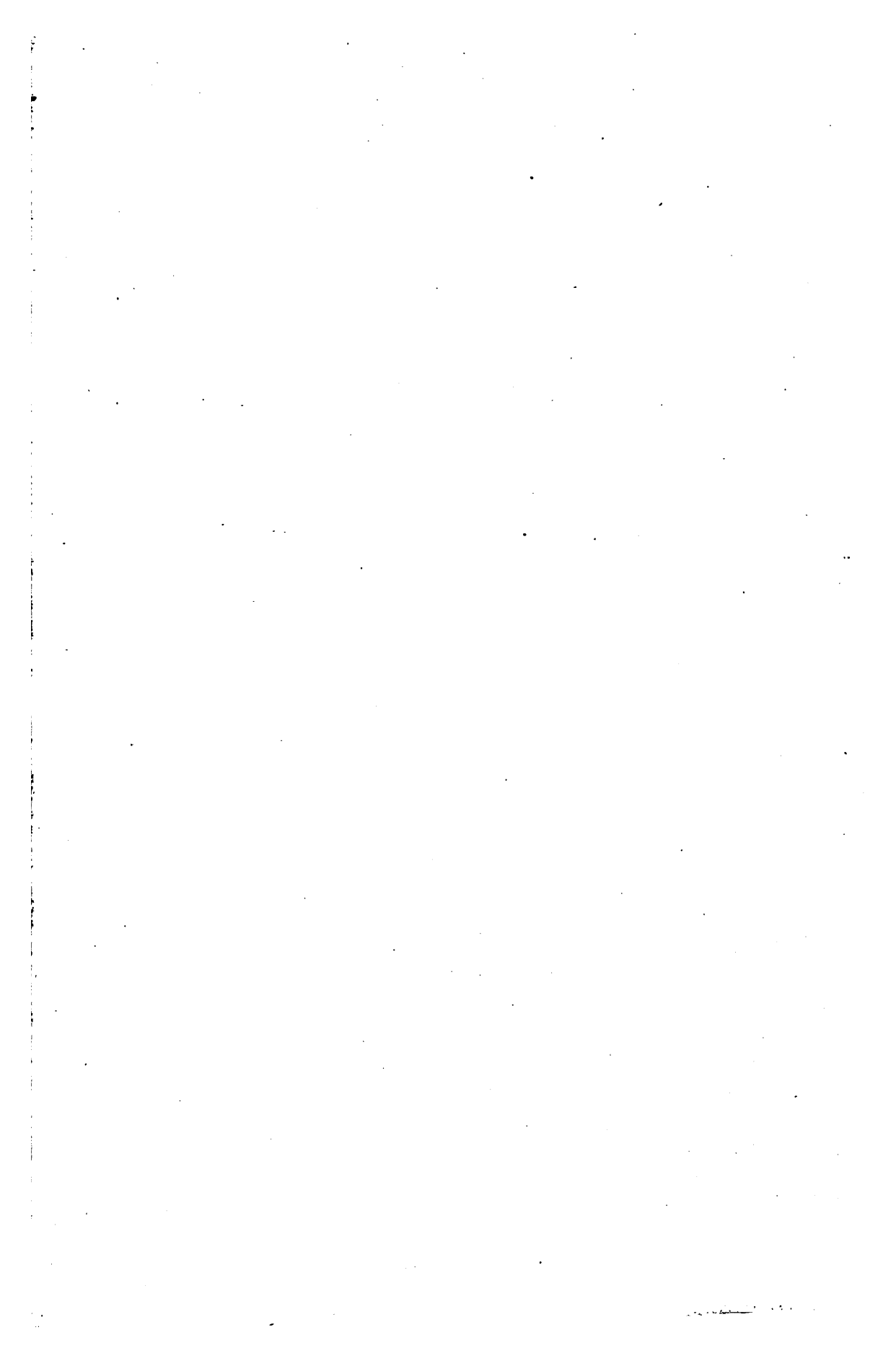
Mining Operations Act—Continued.	PAGE.
wages not to be paid at public houses	75
returns to be made by owners and agents	76
notice of accidents to be sent to inspector	76
notice of opening or abandoning mines	77
fencing abandoned mines	77
inspector not to be interested in mines	78
powers of inspector	78
inspector to report annually	79
penalties and prosecutions	79
general rules	80
ventilation of mines	80
use of explosives	81
man-holes and spaces in underground roads	81
fencing old shafts	82
securing shafts	82
protection from water	82
division of shaft	82
signalling	82
raising or lowering persons	82
inclination of ladders	83
dressing rooms for employees	83
fencing machinery	83
boilers	83
wilful damage of machinery	83
plans to be produced on inspection of mine	84
Mineral Lands—See <i>Mining Act</i>.	
applications for, where to be made	13
form of affidavit to be filed	72
Minerals, economic, in Ontario	2-7
practical suggestions to explorers	290
Municipal Act—extract from	183
Powers and duties of councils as to highways and bridges	183
“ “ “ as to drainage	202
Patent—when issued in districts subject to Land Titles Act	17
when lost	17
directions to applicants for	17
affidavits in support of application for	34, 50
Pine Tree Regulations, 27th May, 1869	32
8rd April, 1880	33
Pine timber, dues on	137
reserved on free grants	37
reserved on mineral lands	65
see <i>Timber on Public Lands</i>	87
Public Lands Act	22
department of Crown Lands continued and Commissioner to preside ..	22
appointment of officers and agents	23
agents not to purchase land	23
Commissioner to report annually	23
Lieutenant-Governor in Council may make orders	23
determination of claims under former Acts	24

Public Lands Act—*Continued.*

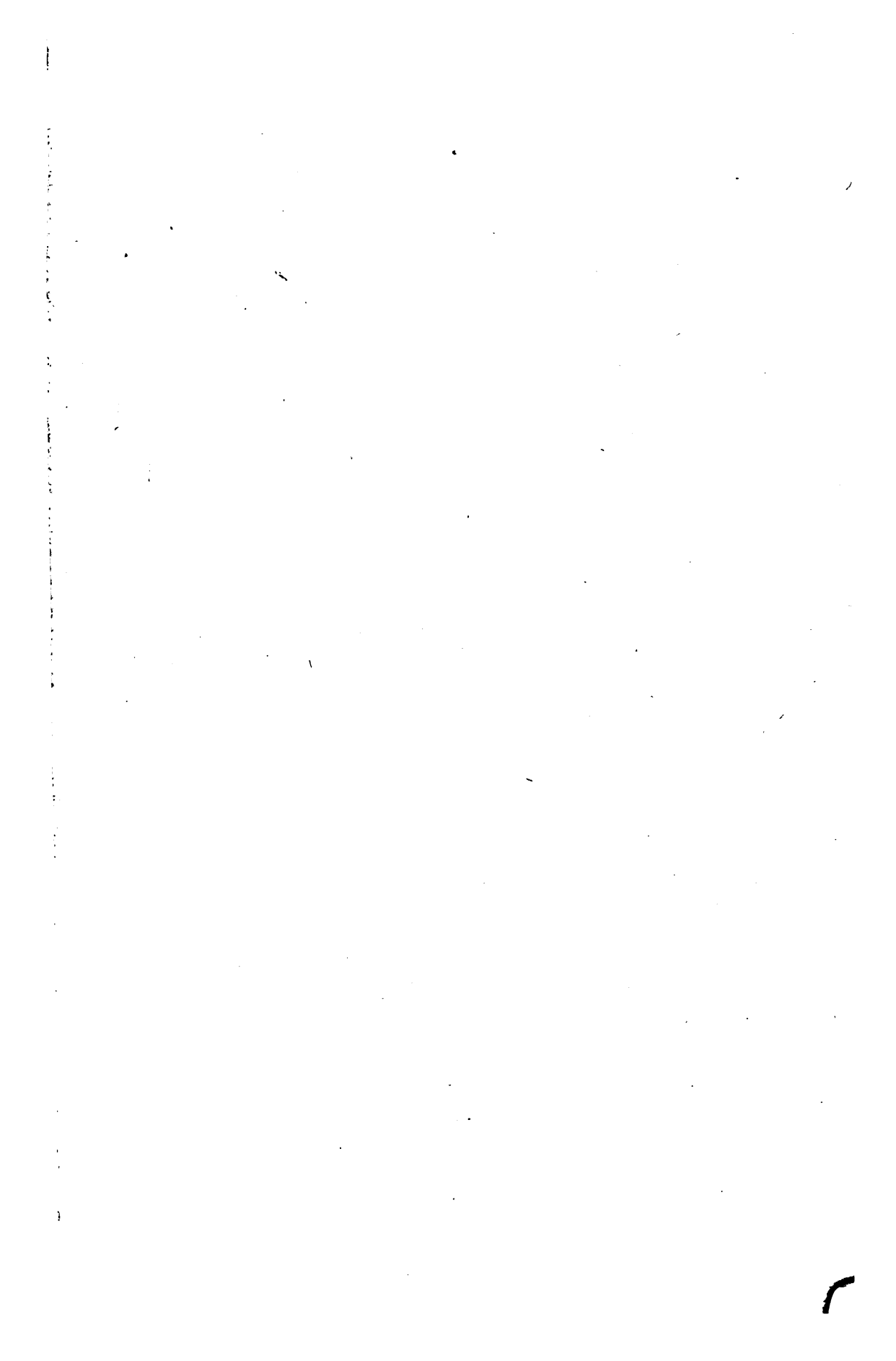
	PAGE.
free grants may be made for public purposes.....	24
price of lands and terms of sale may be fixed.....	24
licenses of occupation may be issued	24
register of assignments to be kept.....	25
tax-deed may be accepted as valid transfer.....	26
right of Commissioner to cancel sale, etc.....	26
Commissioner may receive proof in support of claims of heirs and devisees	26
when claims may be declared forfeited.....	26
how possession obtainable in certain cases	27
Commissioner may issue warrant for rent in arrear	27
cancellation of patents issued in error	27
compensation in case of double or inconsistent grants	28
“ “ of deficiency of area.....	28
judgment avoiding a patent to be registered	28
reduction of price on sales previous to 1st July, 1867	29
assessment of unpatented lands.....	29
lists to be furnished to County Treasurer of lands disposed of.....	30
offences and penalties for trafficking in land by officers.....	30
lists of lands for sale to be published.....	31
affidavits, before whom to be made	31
commissions of enquiry may be issued.....	31
copies of records to be evidence	32
titles of lands granted before April, 1860.....	32
water lots, sale of, declared legal	32
lands which are open for sale.....	10
Bruce Mines agency.....	10
Thessalon “	10
Spanish River “	10
Sturgeon Falls “	11
Sudbury “	11
affidavits to be made by applicants—forms of.....	34
Railways, act respecting aid to certain (1889).....	52
annual payments may be made in lieu of gross sum... ..	52
conditions of aid.....	53
land to be set apart to form subsidy fund.....	54
terms of sale.....	54
how money to be applied.....	55
pine trees to be reserved.....	55
Lieutenant-Governor in Council may reduce price.....	55
act respecting aid to certain railways (1890).....	56
land set apart.....	56
enquiry about line of Parry Sound Colonization Railway.....	57
regulations respecting sale of railway lands.....	58
list of lands open for sale.....	11
Rainy River Free Grants and Homesteads Act. See <i>Free Grants</i>	43
Rivers and streams, act for protecting public interest in.....	93
all persons entitled to use for floating timber, etc.....	93
not to injure dams or other structures.....	94
penalty for obstructing by refuse.....	94
recovery of fines.....	95

Rivers and streams—Continued.	PAGE.
tolls for use of improvements, how fixed.....	96
lien for tolls by persons making improvements.....	97
right of access to banks of rivers and streams.....	98
persons entitled to tolls may make rules.....	98
injunction, right to against certain owners restricted..	98
Regulations, Free Grant, 27th May, 1869.....	45
“ “ 23rd July, 1875.....	46
railway lands.....	58
Crown Timber.....	185
Saw-Log, Driving Act.....	100
interpretation.....	100
water not to be obstructed.....	100
persons clearing obstruction to use care.....	101
provision when logs are intermixed.....	101
separation of intermixed logs.....	102
damages where logs wrongfully detained.....	103
lien for tolls.....	103
claims to be settled by arbitration.....	104
arbitrators to give directions as to sale of logs.....	105
limitation of claims.....	105
districts may be exempted by proclamation.....	105
form of bond.....	106
culling and measurement of.....	123
Statute labor in unincorporated townships (<i>Bettes Act</i>).....	237
Surveys, systems of, adopted in Ontario.....	13
local acts relating to.....	177
Surveyors. See <i>Land Surveyors</i>	151
Taxes, lands sold and located, may be sold for.....	26
rights of purchaser therein.....	26
how purchaser should proceed to secure title.....	5
Timber on Public Lands, Act respecting.....	87
grant of licenses to cut.....	87
period and effect of licenses.....	87
government road allowances deemed ungranted.....	88
rights of licensee.....	88
township councils entitled to percentage of dues.....	88
obligations of licensees.....	89
sale of timber for nonpayment of dues.....	89
liability of persons cutting without license.....	90
seizure of timber by Crown officer.....	91
forfeiture of timber for fraud.....	92
effect of registration under Land Titles Act upon licenses.....	92
regulations respecting Crown.....	135
duties on timber cut.....	137
timber license, form of.....	189
list of Crown timber agents.....	141
circular to license holders respecting Fire Act.....	146
culling and measurement of.....	193

	PAGE.
Timber Slide Companies' Act.....	107
letters patent may be issued.....	108
by-laws to regulate transmission of timber.....	109
interference with property.....	109
consent to formation of company when required.....	110
recovery of payments made by shareholders.....	110
termination of existence.....	110
directors to report yearly.....	110
inspection of books.....	111
arbitration proceedings.....	111
how company to proceed in case of lands of absentees.....	112
registration of award.....	113
report to acquire existing works.....	114
mill sites on which mills and works exist.....	114
principle regulating tolls.....	115
timber on which toll may be taken.....	116
when and how timber may be seized for tolls.....	116
offences and penalties.....	117
limitation of actions.....	118
time for completion of works.....	118
works to be kept in good repair.....	118
union of companies.....	119
term of existence and extension of powers.....	119
Commissioner of Crown Lands substituted for Commissioner of Public Works.....	120
publication of schedule of tolls.....	120
approval of report before issue of charter.....	120
annual account to contain schedule of tolls.....	121
seizure of timber for tolls in certain streams.....	121
ratio of tolls.....	122



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